

(2023) 07 KL CK 0012

In the High Court Of Kerala

Case No : Writ Petition (C) No. 20421 Of 2023

Mrs Litty Kurian Eapen

APPELLANT

Vs

National Highways Authority Of India NHA

RESPONDENT

Date of Decision : 03-07-2023

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 17
National Highways Act, 1956 — Section 3G(5)

Citation : (2023) 07 KL CK 0012

Hon'ble Judges : Gopinath P., J

Bench : Single Bench

Advocate : Lijo Joseph George, T. Jayan, S.Krishnamoorthy, Sneha Rose, Aruna.P.S.

Final Decision : Disposed Of

Judgement

Gopinath P., J

1. Certain land belonging to the petitioner was subject matter of acquisition for the development of National Highway-66 under the provisions of the National Highways Act, 1956. According to the petitioner, an award has been passed determining the amount of compensation payable to the petitioner (Ext.P2). Petitioner has preferred Ext.P5 application under Section 3G(5) of the National Highways Act, 1956 before the 2nd respondent and the same is pending for consideration. Petitioner has also filed Ext.P6 application under Section 17 of the Arbitration and Conciliation Act, 1996 before the 2nd respondent, seeking the following reliefs:-

"i. To treat the land in Sy. NO.229/20 of Cherthala North Village as dry land instead of wet and to award compensation for dry land;

ii. To revalue the structures in Sy. No.229/20 of Cherthala North Village;

iii. To award the compensation of rs.30,693/- as determined in the final report of the PWD, and to disburse the balance amount of Rs.17,337/- along with solatium

and interest.”

2. Learned counsel appearing for the petitioner would submit that the writ petition may be disposed of, directing the 2nd respondent to consider Ext.P5, within a time frame to be fixed by this Court and also to consider Ext.P6 application for interim relief immediately, after affording an opportunity of hearing to the petitioner.

3. Having heard the learned counsel appearing for the petitioner, learned Standing Counsel appearing for the National Highways Authority of India and the learned Government Pleader appearing for the official respondents, I am of the view that this writ petition can be disposed of, directing the 2nd respondent to consider Ext.P5, in accordance with the law, within a period of 18 months from the date of receipt of a certified copy of this judgment. Considering the prayers made in Ext.P6 application filed under Section 17 of the Arbitration and Conciliation Act, I am of the view that the petitioner has to file a fresh application, if the petitioner has a case that an expert commission has to be appointed to determine the nature of the land before the land is taken over for the purposes of National Highway development. The prayers made in Ext.P6 presently filed do not appear to fall within the scope of Section 17 of the Arbitration and Conciliation Act.

Accordingly, the writ petition is disposed of as follows:-

(i) The 2nd respondent shall consider Ext.P5 application under Section 3G(5) of the National Highways Act and dispose of the same, after affording an opportunity of hearing to the petitioner and the National Highways Authority of India, within a period of 18 months from the date of receipt of a certified copy of this judgment;

(ii) It will be open to the petitioner to file any application for appointment of expert commission under Section 17 of the Arbitration and Conciliation Act and if such application is filed within a period of two weeks from today, the 2nd respondent shall pass orders thereon, after affording an opportunity of hearing to the petitioner and to the National Highways Authority of India, within a period of one month from the date of which such application is filed.

The writ petition is disposed of as above.