
(1985) 02 KL CK 0020
In the High Court Of Kerala
Case No : W.A. No. 806 of 1973

M.T. Varghese and Others

APPELLANT

Vs

The Special Deputy Collector

RESPONDENT

Date of Decision : 25-02-1985

Acts Referred:

Kerala Land Acquisition Act, 1961 — Section 20

Citation : (1985) KLJ 262

Hon'ble Judges : K. Bhaskaran, Acting C.J.; S. Padmanabhan, J

Bench : Division Bench

Advocate : Abraham Vakkanal, for the Appellant;

Judgement

Bhaskaran, Ag. C. J.

1. The writ petition was for the issue of a writ of mandamus directing the respondent, the Special Dy. Collector (Land Acquisition) for the Kerala State Electricity Board, Trivandrum, to make a reference to the court of competent jurisdiction, u/s 20 of the Kerala Land Acquisition Act, for adjudication of their claim for enhanced compensation in respect of their land acquired as per proceedings in L. A. No. 10/78. The learned Judge dismissed the application finding that though the appellant-petitioners claimed to have filed the original of Ext. P3, the respondent had submitted that no such application was received in his office, and that there was no endorsement also to that effect. The other contention of the appellant-petitioners was that because of Ext. P1 objection filed on 28-11-1978, long prior to the passing of Ext. P2 Award on 13-11-1979, that objection should have been treated as an application u/s 20 of the Kerala Land Acquisition Act. As far as the first point is concerned, it is a question of fact on which the learned Judge has pronounced accepting the case put forward by the respondent. So far as the second point is concerned, Ext. P1 being an objection filed prior to the passing of the Award, it could not be treated as an application for reference u/s 20 of the Act, the relevant portion of which is in the following words:

Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court.

The question of accepting or not of the award would arise only after the passing of the award, and admittedly no application in writing for reference having been made after the passing of the award, the objection filed earlier could not be treated as an application filed u/s 20 in due compliance with the provisions contained therein.