

(2017) 06 KL CK 0007
In the High Court Of Kerala
Case No : 5878 of 2017 (H)

SAFIYA

APPELLANT

Vs

THE SPECIAL TAHSILDAR (LAND ACQUISITION),

RESPONDENT

Date of Decision : 12-06-2017

Acts Referred:

[Land Acquisition Act, 1894](#), [Section 18](#) -
Reference to Court

Citation : (2017) 06 KL CK 0007

Hon'ble Judges : P.B.Suresh Kumar

Bench : SINGLE BENCH

Advocate : A.BALAGOPALAN, SHIRAZ ABDULLA

Final Decision : Disposed

Judgement

1. The Special Tahsilar, Land Acquisition, Kasargod is impleaded suo motu in this writ petition as the additional fourth respondent.

2. An item of property owned by the petitioner has been acquired for the purpose of Railway under the Land Acquisition Act, 1894 ("the Act"). Dissatisfied with the quantum of compensation granted to the petitioner, she preferred an application for reference under Section 18 of the Act as early as on 2.9.1999. The grievance of the petitioner is that the said application has not been processed and forwarded to the reference court till date. She, therefore, seeks appropriate directions in this regard

in this writ petition.

3. The learned Special Government Pleader, on instructions, submits that the land acquisition proceedings referred to by the petitioner in the writ petition have been completed by the Special Tahsildar, Land Acquisition (Railway), Kasaragod and by a subsequent order issued by the Government, the office of the said Land Acquisition Officer has been abolished. It is pointed out by the learned Government Pleader that the powers of the Land Acquisition Officer in respect of the said acquisition proceedings are now being exercised, therefore, by the Special Tahsildar, Land Acquisition, Kasargod. It is also pointed out by the learned Special Government Pleader that the said officer could not trace the application preferred by the petitioner.

4. Ext.P3 is the application claimed to have been preferred the petitioner for reference. The copy of the application produced before this Court indicates that the original application has been received by the Special Tahsildar, Land Acquisition (Railway), Kasargod. Ext.P4 is the reminder claimed to have been sent by the petitioner to Ext.P3. Ext.P4 is also seen acknowledged by the Special Tahsildar, Land Acquisition, Kasargod. The learned Special Government Pleader has no case that Exts.P3 and P4 are false documents. In the circumstances, I am of the view that the inability on the part of the respondents in tracing out the application preferred by the petitioner for reference cannot be a reason for declining the request made by the petitioner for reference under Section 18 of the Act.

5. In the said view of the matter, the writ

petition is disposed of directing the petitioner to furnish a copy of Ext.P3 before the Special Tahsildar, Land Acquisition, Kasargod, within a week from the date of receipt of a copy of this judgment. If a copy of Ext.P3 is furnished by the petitioner before the Special Tahsildar, Land Acquisition, Kasargod as directed above, it is directed that the same shall be treated as the original and shall be processed and made over to the reference court under Section 18 of the Act, within a month thereafter.