

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 13TH DAY OF APRIL 2022/23RD CHAITHRA, 1944

WP(C) NO. 6996 OF 2021

PETITIONERS:

- 1 THRESYAMMA JOSE
AGED 59 YEARS
W/O. JOSE P. V. PARASSERIL, S. N. PURAM P. O.,
THIRUVIZHA, PIN - 688582.
- 2 DEVAKI
W/O. CHELLAPPAN, THOPPIL,
KANICHUKULANGARA P. O., THIRUVIZHA, PIN -
688582.
- 3 APPUKUTTAN MADHAVAN
S/O. MADHAVAN, THOTTATHARA HOUSE,
KANICHUKULANGARA P. O., PIN - 688582.
- 4 SURESH KUMAR
S/O. KRISHNA PILLAI, KOTTAPPURATHUVELI,
KANICHUKULANGARA P. O., PIN - 688582.
- 5 SANTHA RAJAPPAN
W/O. RAJAPPAN, MENON THOPPIL,
S. N. PURAM P. O., PIN - 688582.
- 6 T. P. ANILKUMAR
S/O. PARAMESWARA KURUPPU, KOLLAPARAMBIL,
KANICHUKULANGARA P. O., PIN - 688582.
- 7 PUSHPARAJAN
S/O. APPUKUTTAN, VARAPUZHA,
S. N. PURAM P. O., PIN - 688 582.

BY ADVS.

P.K.NANDINI

SRI.A.P.JAYARAJ (ANJILIKKAL)

SRI.JUBYRAJ.A.P

SMT.JISHAMOL CLEETUS

RESPONDENTS:

- 1 UNION OF INDIA
REPRESENTED BY GENERAL MANAGER, SOUTHERN
RAILWAY, PARK TOWN P. O., CHENNAI - 600001.

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: 2 :

2 ASST. DIVISIONAL ENGINEER
SOUTHERN RAILWAY, KOLLAM - 691001.

3 ADDITIONAL TAHSILDAR
TALUK OFFICE, CHERTHALA,
ALAPPUZHA DISTRICT - 688 524.

BY ADV SRI.K.SHRIHARI RAO
SMT.PARVATHY KOTTOL GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 13.04.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

N. NAGARESH, J.

.....
W.P.(C) No.6996 of 2021
.....

Dated this the 13th day of April, 2022

J U D G M E N T

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The petitioners are residents/owners of land adjacent to Alappuzha-Ernakulam Railway line in Kanichukulangara and SN Puram in Cherthala Taluk. They have filed this writ petition seeking to direct respondents 1 and 2 to disburse the amount of compensation as fixed by the 3rd respondent in Ext.P2 Valuation Certificates with 12% interest.

2. The petitioners state that the Assistant Divisional Engineer of Southern Railway, Kollam issued notice to the petitioners to cut and remove certain trees situated in their land which were leaning over the railway line. The list of trees to be cut and removed were mentioned in the notice.

The petitioners were cautioned that unless the trees are cut and removed within ten days, the trees will be cut at government expense and damages will be recovered from the land owners. It was also stated that if any trees mentioned in the notice falls down on the railway line and cause interruption to the train services, the loss sustained will be recovered from the owners without any legal proceedings.

3. The petitioners state that pursuant to Exts.P1(1) to P1(7) notices, the petitioners themselves cut and removed the trees. The petitioners obtained Valuation Certificates from the Additional Tahsildar fixing the value of the trees cut. The Valuation Certificates were issued in the year 2011 and were addressed to the Assistant Divisional Engineer, Southern Railway. The Section Engineer prepared Site Verification Report and forwarded to the Assistant Divisional Engineer in 2011 itself. The compensation amount payable to the petitioners are not paid so far.

4. The petitioners state that they have submitted all required documents for receiving compensation for the trees.

The Railway Administration is statutorily liable to pay or tender the compensation for any damage or loss caused to the petitioners under Section 15(2) of the Railways Act, 1989. The respondents are therefore compellable to pay the amount due to the petitioners forthwith.

5. Respondents 1 and 2 contested the writ petition filing statement. The respondents stated that the 2nd respondent initiated action to calculate the claim of the petitioners. It was found that in Ext.P2 series of Valuation Certificates issued by the 3rd respondent, the compensation amount mentioned was found to be either corrected or not visible. Calculation of actual compensation amount with up to date interest is also not found in the documents submitted.

6. The 2nd respondent therefore advised the claimants to obtain clear original valuation sheets for the compensation amount from the 3rd respondent and submit the same, calculating interest at 12% per annum from the date of Valuation Certificate. The petitioners have not submitted the said documents.

7. I have heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents.

8. There is no dispute over the fact that the petitioners have cut and removed the trees, which were directed to be cut in Ext.P1 series notices. Ext.P2 series of Valuation Certificates issued by the Additional Tahsildar would indicate the valuation in respect of the trees cut and removed. A perusal of Ext.P2 series would show that the said certificates were issued by the Additional Tahsildar and addressed to the Assistant Divisional Engineer.

9. If respondents 1 and 2 have any doubt regarding the contents of the Valuation Certificates, it is for respondents 1 and 2 to get necessary clarifications from the 3rd respondent-Additional Tahsildar. The petitioners, who have cut and removed trees at the instance of respondents 1 and 2, cannot be burdened with production of Valuation Certificates or calculation of interest payable.

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: 7 :

In the circumstances, the writ petition is disposed of directing respondents 1 and 2 to disburse the amount of compensation as fixed by the 3rd respondent in Ext.P2 Valuation Certificates to the petitioners with 12% interest, within a period of two months.

aks/12.04.2022

Sd/-
N. NAGARESH, JUDGE

APPENDIX OF WP(C) 6996/2021

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF NOTICE ISSUED BY 2ND RESPONDENT TO THE PETITIONERS IN 2007.
- EXHIBIT P2 TRUE COPY OF VALUATION CERTIFICATE ISSUED BY 3RD RESPONDENT IN 2011.
- EXHIBIT P3 TRUE COPY OF JUDGMENT DATED 15.12.2016 IN WP(C) NO.30785 OF 2016 OF THIS HON'BLE COURT.
- EXHIBIT P4 TRUE COPY OF JUDGMENT DATED 29.08.2017 IN WA NO.1118 OF 2017 OF THIS HON'BLE COURT.
- EXHIBIT P5 TRUE COPY OF JUDGMENT DATED 19.09.2018 IN WP(C) NO.7174 OF 2018 OF THIS HON'BLE COURT.
- Exhibit P6 TRUE COPY LETTER DATED 29-12-2021 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS.
- Exhibit P7 TRUE COPY LETTER DATED 24-07-2017 SUBMITTED BY THE PETITIONER UNDER RTI ACT.
- Exhibit P8 TRUE COPY OF THE REPLY ISSUED BY THE RAILWAYS ON 19-08-2017 UNDER RTI ACT.
- Exhibit P9 TRUE COPY OF LETTER DATED 02-01-2012 ISSUED BY SECTION ENGINEER, ALAPUZHA TO THE 2ND RESPONDENT.