

Subaida.U vs Union of India

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Court : Kerala Orders

Decided On : Apr-02-2025

Judge : Honourable Mr. Justice T.R.Ravi

Appeal No. : WP(C)/35537/2024

Appellant : Subaida.U

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947 WP(C) NO. 35537 OF 2024 PETITIONER: SUBAIDA.U AGED 46 YEARS W/O MARCUS IQBAL SADDIQUE E., UMMERODA HOUSE, KAVARATTI ISLAND U.T OF LAKSHADWEEP, PIN - 682555. BY ADVS. LAL K.JOSEPH P.MURALEEDHARAN (THURAVOOR) T.A.LUXY SURESH SUKUMAR KOYA ARAFA MIRAGE ANZIL SALIM SANJAY SELLEN SONIA SHIBU AAMINA RAFAEEK RESPONDENTS: 1 UNION OF INDIA REPRESENTED BY THE SECRETARY TO THE GOVERNMENT, MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA, JAI SINGH MARG, HANUMAN ROAD AREA, CONNAUGHT PLACE, NEW DELHI,

DELHI, PIN - 110001. 2 UNION TERRITORY OF LAKSHADWEEP REPRESENTED BY ITS ADMINISTRATOR, OFFICE OF THE LAKSHADWEEP ADMINISTRATOR, KAVARATTI, PIN - 682555. 3 THE LAND ACQUISITION COLLECTOR /ADDITIONAL DISTRICT MAGISTRATE UNION TERRITORY OF LAKSHADWEEP, LAKSHADWEEP ADMINISTRATION, COLLECTORATE, KAVARATTI, PIN - 682555. 4 SUPERINTENDENT ENGINEER OFFICE OF THE SUPERINTENDENT ENGINEER LAKSHADWEEP, KAVARATTI ISLAND, PIN - 682555. 5 THE ASSISTANT ENGINEER LAKSHADWEEP PUBLIC WORKS DEPARTMENT (LPWD), CIVIL SUB DIVISION, KAVARATTI, UNION TERRITORY OF LAKSHADWEEP, PIN - 682555. SRI.R.V. SREEJITH, SC. SRI. K.S. PRENJITH KUMAR. CGC. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02.04.2025, ALONG WITH WP(C).203/2025, 4432/2025 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947 WP(C) NO. 203 OF 2025 PETITIONER: MOHAMMEDALI AGED 79 YEARS S/O LATE KADIRI MASTER, PAKKIYODA HOUSE, CHETHALATH ISALND, U.T. OF LAKSHADWEEP, PIN - 682554. BY ADVS. LAL K.JOSEPH P.MURALEEDHARAN (THURAVOOR) T.A.LUXY SURESH SUKUMAR ANZIL SALIM SANJAY SELLEN KOYA ARAFA MIRAGE RESPONDENTS: 1 UNION OF INDIA REPRESENTED BY SECRETARY TO THE GOVERNMENT, MINISTRY OF RURAL DEVELOPMENT, 1ST FLOOR, KRISHI BHAVAN, DR RAJENDRA PRASAD RD, MARG, RAJPATH AREA, CENTRAL SECRETARIAT, NEW DELHI, PIN - 110001. 2 THE ADMINISTRATOR OFFICE OF THE LAKSHADWEEP ADMINISTRATOR, KAVARATTI, UNION TERRITORY OF LAKSHADWEEP, PIN - 682555. 3 THE LAND ACQUISITION

COLLECTOR UNION TERRITORY OF LAKSHADWEEP, LAKSHADWEEP ADMINISTRATION, COLLECTORATE, KAVARATTI, PIN - 682555. SRI.R.V. SREEJITH, SC. SRI. K.S. PRENJITH KUMAR. CGC. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02.04.2025, ALONG WITH WP(C).35537/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947 WP(C) NO. 4432 OF 2025 PETITIONERS: 1 SHAIKOYA SUHRAVARDI AGED 53 YEARS S/O LATE AHMED KOYA PADIPURA, SUHRABARD HOUSE, AMINI, U.T. OF LAKSHADWEEP, PIN - 682552. 2 SAYED MOHAMMED KOYA P AGED 49 YEARS S/O B ATTAKOYA THANGAL PURAKKAD HOUSE, AMINI U.T. OF LAKSHADWEEP, PIN - 682552. BY ADVS. LAL K.JOSEPH P.MURALEEDHARAN (THURAVOOR) T.A.LUXY SURESH SUKUMAR ANZIL SALIM KOYA ARAFA MIRAGE SANJAY SELLEN SONIA SHIBU RESPONDENTS:

1 UNION OF INDIA REPRESENTED BY SECRETARY TO THE GOVERNMENT, MINISTRY OF RURAL DEVELOPMENT, 1ST FLOOR, KRISHI BHAVAN, DR RAJENDRA PRASAD RD, MARG, RAJPATH AREA, CENTRAL SECRETARIAT, NEW DELHI, DELHI, PIN - 110001.

2 THE ADMINISTRATOR OFFICE OF THE LAKSHADWEEP ADMINISTRATOR, KAVARATTI, UNION TERRITORY OF LAKSHADWEEP, PIN - 682555. 3 THE LAND ACQUISITION COLLECTOR ADDITIONAL DISTRICT MAGISTRATE, UNION TERRITORY OF LAKSHADWEEP, LAKSHADWEEP ADMINISTRATION, COLLECTORATE, KAVARATTI, PIN - 682555. SRI.R.V. SREEJITH, SC. SRI. K.S. PRENJITH KUMAR. CGC. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON

02.04.2025, ALONG WITH WP(C).35537/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947 WP(C) NO. 6775 OF 2025 PETITIONERS: 1 ATTA KOYA PATHUMMATHADA AGED 70 YEARS S/O LATE SAYYID ABOOSALIH KUNHI KOYA THANGAL, PATHUMMATHADA HOUSE, AMINI ISLAND, U.T OF LAKSHADWEEP, PIN - 682552. 2 SAYYID FATHAHULLA MUTHUKOYA THANGAL AGED 80 YEARS S/O LATE SAYYID ABOOSALIH KUNHI KOYA THANGAL, PATHUMMATHADA HOUSE, AMINI ISLAND, U.T OF LAKSHADWEEP, PIN - 682552.

3 NISAR PATHUMMATHADA AGED 43 YEARS, S/O HAMZAKOYA P AMINI, LAKSHADWEEP, PIN - 682552. 4 SAYED YOUSUF KOYA THANGAL AGED 77 YEARS S/O KUNHI KOYA THANGAL, MADALAPPURA, AMINI, PIN - 682552. BY ADVS. LAL K.JOSEPH P.MURALEEDHARAN (THURAVOOR) T.A.LUXY KOYA ARAFA MIRAGE SURESH SUKUMAR ANZIL SALIM SANJAY SELLEN AKASH GEORGE AMJANA MUMTHAZ P. RESPONDENTS: 1 UNION OF INDIA AREA, CENTRAL SECRETARIAT, NEW DELHI, PIN - 110001.

2 THE ADMINISTRATOR OFFICE OF THE LAKSHADWEEP ADMINISTRATOR, KAVARATTI, UNION TERRITORY OF LAKSHADWEEP, PIN - 682555. 3 THE LAND ACQUISITION COLLECTOR ADDITIONAL DISTRICT MAGISTRATE, UNION TERRITORY OF LAKSHADWEEP, LAKSHADWEEP ADMINISTRATION, COLLECTORATE, KAVARATTI, PIN - 682555. SRI.R.V. SREEJITH, SC. SRI. K.S. PRENJITH KUMAR. CGC. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02.04.2025, ALONG WITH WP(C).35537/2024 AND CONNECTED

CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

T.R. RAVI, J.

----- WP(C) Nos.35537/2024, 203/2025,
----- Dated this the 02nd day of April, 2025

JUDGMENT

The prayer in all these writ petitions is to quash the notification dated 07.02.2024 which has been produced as Ext.P5 in W.P.(C) No.4432 of 2025 to the extent it notifies the multiplication factor for the purpose of fixing of the land value with respect to the Union Territory of Lakshadweep as one. The grounds on which the order is challenged are: 1) the Land Acquisition Collector does not have Authority to issue such a notification; 2) the notification is not in accordance with the schedule to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the Act).

2. The respondents have filed a counter affidavit

explaining the source of power to the Land Acquisition Collector to issue the notification and also detailing the manner in which a notification has been issued in accordance with the schedule to the Act.

3. Heard the counsel on both sides.

4. The main contention of the counsel for the

petitioners is that the Lakshadweep area is a rural area and going by the notification dated 09.02.2016, issued by the Central Government the multiplication factor in the case of rural areas is to be two. The notification dated 09.02.2016 has been produced along with W.P.(C) No.4432 of 2025 as Ext.P6. It is contended that the appropriate Government in the case of Union Territory of Lakshadweep is the Central Government or at best the Administrator who has been notified to be the appropriate Government by orders issued by the President in exercise of the

power under Article 239 of the Constitution of India. It is submitted that the Administrator could not have delegated the power to the District Collector and there could not have been any sub delegation to the Land Acquisition Collector. Going by the notification dated 30.11.2015 produced as Ext.P3 in W.P.(C) No.4432 of 2025, the President has directed that the powers and functions of the appropriate Government under the Act with respect to the Union Territory of Lakshadweep be exercised and discharged by the Administrator. Section 3(e) of the Act defines appropriate Government to mean, in relation to acquisition of land situated in all Union Territory except Puducherry, as the Central Government. The First Schedule to the Act under serial numbers 2 and 3 says that the factor by which the market value is to be multiplied in the case of rural areas will be 1 to 2 based on the distance of the projects from the urban area, as may be notified by the appropriate Government and the factor by which the market value is to be multiplied in the case of urban areas will be one. The power is thus available to the appropriate Government to fix the multiplication factor. Ext.P6 produced in W.P.(C) No.4432 of 2025 relates to notification where the appropriate Government is the Central Government and it will not apply to the case of the Union Territory of Lakshadweep, where the appropriate Government is to be the Administrator. A reading of Ext.P5 would show that, it is a notification of the appropriate Government though it is signed by the Land Acquisition Collector. By Ext.P4 produced in W.P.(C) No.4432 of 2025 the Administrator had ordered that the appropriate Government for the entire district shall be the District Collector.

5. According to the counsel for the petitioner, the Administrator did not have power to delegate the power to the District Collector.

6. The Standing Counsel for the Administrator

would submit that the proviso to Section 3(e) says that in respect to the public purpose in a district for an area not exceeding such as may be notified by the appropriate Government, the Collector of such district shall be deemed to be the appropriate Government. It is hence submitted that the Administrator in his capacity as the appropriate Government has notified the Collector to be the Appropriate Government and the notification is well within the power available to

the appropriate Government. I find justification in the above contention. Ext.P5 cannot be said to be without authority.

7. The only other question is whether Ext.P5 has

been issued in accordance with the provision contained in the First schedule to the Act. The counsel for the petitioners contended that going by serial No.3 to the First Schedule the factor has to be fixed based on the distance of the project from the urban area and since the Union Territory of Lakshadweep is not an urban area, the factor cannot be fixed as one as provided under serial No.3 of the First Schedule. It is submitted that there has been no consideration of the basis, which is to determine the factor as per serial No.2 of the First Schedule. It is further submitted that since the entire Lakshadweep area is in a rural area the multiplication factor should have been two since no distance can be drawn between an urban area and rural area in the case of Lakshadweep. The Standing Counsel on the other hand submitted that the power is available to the appropriate Government to fix any factor between 1 and 2 and there is no prohibition for fixing one as the factor. It is submitted that fixing one as the factor is also justified by the fact that even though the Union Territory of Lakshadweep is not treated as an urban area for any other purpose it has all the characteristics of an urban area going by the density of population and other factors which have been explained in the counter affidavit. Details of the total population in the total area and the manner in which it is comparable to urban areas have been explained. It is stated that the road network density in Lakshadweep is the fourth highest in India and in terms of other infrastructure facilities, Lakshadweep has an Airport at Agatti Island and all the Islands of Lakshadweep are well equipped with healthcare facilities, Government Educational Institutions and Ships.

8. The contention of the counsel for the

petitioners cannot be accepted for the reason that there is power available to the appropriate Authority to fix any factor between 1 and 2 and there is no prohibition to having one as the factor if there is sufficient justification for the same. If an urban area is to be determined by the nature of the area and not by the mere reason that it is called an urban area for the purposes of further enactments, there

can be no objection to fix the multiplication factor as one. I do not find any illegality on the criteria in fixation of the multiplication factor. No sufficient grounds are made out for warranting interference by this Court in exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India. The writ petitions fail and are dismissed. Sd/- T.R.RAVI JUDGE mpm APPENDIX OF WP(C) 35537/2024 PETITIONERS EXHIBITS Exhibit P1 THE TRUE COPY OF THE JUDGMENT DATED HONBLE COURT. Exhibit P2 THE TRUE COPY OF THE NOTICE F.NO.34/12/2019-LR DATED 12/05/2023 ISSUED BY THE 2ND RESPONDENT. Exhibit P3 THE TRUE COPY OF THE NOTICE UNDER SECTION

21 OF THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION REHABILITATION AND RESETTLEMENT ACT, 2013 ACT, VIDE F.NO.34/12/2019-LR DATED:09/02/2024 ISSUED BY THE 2ND RESPONDENT. Exhibit P4 THE TRUE COPY OF THE AWARD AS PER THE F.NO.34/12/2019-LR/657 DATED 09/07/2024 PASSED BY THE 3RD RESPONDENT. Exhibit P5 THE TRUE COPY OF THE NOTICE OF THE DISBURSEMENT OF COMPENSATION AWARD AMOUNT IN VIDE F.NO. 34/12/2019-LR/662 DATED 11.07.2024 ISSUED BY THE 3RD RESPONDENT.

Exhibit P6 THE TRUE COPY OF THE REQUEST FOR REFERENCE DATED 29TH JULY, 2024 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT. Exhibit P7 THE TRUE COPY OF THE REPLY TO RTI APPLICATION DATED 23.08.24 RECEIVED FROM THE CENTRAL PUBLIC INFORMATION OFFICER. Exhibit P7(a) TRUE COPY OF THE ORDER DATED 13.03.23 ISSUED BY THE 4TH RESPONDENT. Exhibit P8 THE TRUE COPY OF THE NOTIFICATION F.NO.34/08/20215-LR(PART) DATED 07.02.2024 ISSUED BY THE 3RD RESPONDENT. Exhibit P9 THE TRUE COPY OF THE MINISTRY OF HOME AFFAIRS NOTIFICATION NO. S.O 3239(E) DATED 30.11.2015. Exhibit P10 THE TRUE COPY OF THE LAKSHADWEEP

ADMINISTRATION NOTIFICATION NO. ISSUED BY THE SECRETARY (REVENUE) UNION TERRITORY OF LAKSHADWEEP ADMINISTRATION.

APPENDIX OF WP(C) 203/2025 PETITIONERS EXHIBITS Exhibit P1 THE TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT IN F.NO.

34/24/2022-LR/542 DATED 05.06.2024. Exhibit P2 THE TRUE COPY OF THE REPLY FILED BY THE PETITIONER TO THE 3RD RESPONDENT DATED 28.06.2024 ALONG WITH THE ACKNOWLEDGEMENT CARD. Exhibit P3 THE TRUE COPY OF THE AWARD IN F.NO.34/24/2022-LR/1112 DATED 18/10/2024 ISSUED BY THE 3RD RESPONDENT. Exhibit P4 THE TRUE COPY OF THE REQUEST FOR REFERENCE DATED NIL SUBMITTED BY THE PETITIONER. Exhibit P5 THE TRUE COPY OF THE NOTIFICATION NO. S.O.3239(E) DATED 30.11.2015 ISSUED BY THE MINISTRY OF HOME AFFAIRS. Exhibit P6 THE TRUE COPY OF THE NOTIFICATION NO. F.NO.34/8/2015-L.R./1130 DATED 06/09/2022 ISSUED BY THE 2ND RESPONDENT. Exhibit P7 THE TRUE COPY OF THE NOTIFICATION F.NO ISSUED BY THE 3RD RESPONDENT. Exhibit P8 THE TRUE COPY OF THE NOTIFICATION NO. S.O.425 (E) DATED 09.02.2016 ISSUED BY THE DEPARTMENT OF LAND RESOURCES. RESPONDENTS EXHIBITS Exhibit R3(a) A TRUE COPY OF LETTER F NO. U-L BY THE DEPUTY SECRETARY TO THE GOVT, OF INDIA, MHA. APPENDIX OF WP(C) 4432/2025 PETITIONERS EXHIBITS Exhibit P1 TRUE COPY OF THE AWARD IN F.NO.34/8/2019- LR/702 DATED 22/07/2024 ISSUED BY THE 3RD RESPONDENT. Exhibit P2 THE TRUE COPY OF THE REQUEST FOR REFERENCE DATED 31.07.2024 SUBMITTED BY THE PETITIONER. Exhibit P2 (a) THE TRUE COPY OF THE REQUEST FOR REFERENCE DATED 12.08.2024 SUBMITTED BY THE PETITIONER. Exhibit P3 TRUE COPY OF THE NOTIFICATION NO. S.O.3239(E) DATED 30.11.2015 ISSUED BY THE MINISTRY OF HOME AFFAIRS. Exhibit P4 TRUE COPY OF THE NOTIFICATION NO. F.NO.34/8/2015-L.R./1130 DATED 06/09/2022 ISSUED BY THE 2ND RESPONDENT. Exhibit P5 TRUE COPY OF THE NOTIFICATION F.NO ISSUED BY THE 3RD RESPONDENT. Exhibit P6 TRUE COPY OF THE NOTIFICATION NO. S.O.425

(E) DATED 09.02.2016 ISSUED BY THE

DEPARTMENT OF LAND RESOURCES. RESPONDENTS EXHIBITS Exhibit R3(a) TRUE COPY OF THE LETTER F NO.U- BY THE DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA, MHA. APPENDIX OF WP(C) 6775/2025 PETITIONERS EXHIBITS Exhibit P1 TRUE COPY OF THE AWARD IN

F.NO.34/06/2019-LR/684 DATED 16/07/2024 ISSUED BY THE 3RD RESPONDENT. Exhibit P2 TRUE COPY OF THE REQUEST FOR REFERENCE DATED 29.07.2024 SUBMITTED BY THE 2ND PETITIONER. Exhibit P3 TRUE COPY OF THE NOTIFICATION NO. S.O.3239(E) DATED 30.11.2015 ISSUED BY THE MINISTRY OF HOME AFFAIRS. Exhibit P4 TRUE COPY OF THE NOTIFICATION NO. F.NO.34/8/2015-L.R./1130 DATED 06/09/2022 ISSUED BY THE 2ND RESPONDENT. Exhibit P5 TRUE COPY OF THE NOTIFICATION F.NO ISSUED BY THE 3RD RESPONDENT. Exhibit P6 TRUE COPY OF THE NOTIFICATION NO. S.O.425

(E) DATED 09.02.2016 ISSUED BY THE DEPARTMENT OF LAND RESOURCES. RESPONDENTS EXHIBITS Exhibit R3(a) TRUE COPY OF THE LETTER F. NO. U- DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

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