

State of Kerala vs Abraham

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SooperKanoon Citation : sooperkanoon.com/1291689

Court : Kerala

Decided On : Mar-07-2024

Judge : Honourable Mr. Justice a.Muhammed Mustaque,Honourable Mrs. Justice Shoba Annamma Eapen

Appeal No. : LA.App./317/2015

Appellant : State of Kerala

Respondent : Abraham

Judgement :

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE & LA.APP. NO. 316 OF 2015 AGAINST THE JUDGMENT AND DECREE DATED 29.11.2014 IN LAR NO.33/2013 OF PRINCIPAL SUB COURT, KOTTAYAM ----- 1 STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM. 2 THE SPECIAL TAHSILDAR, L.A.(RAILWAY), KOTTAYAM. BY SENIOR GOVERNMENT PLEADER, SR.T.K.SHAJAHAN 1 ALEXANDER CHANDY, S/O.CHANDY, RESIDING AT KALAPPURAYIL VEETIL, VELLASSERRY KARA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM DISTRICT, PRESENTLY RESIDING AT 429 SUMMERLY N DRIVE VELERICD FLORIDA 33594 USA, REPRESENTED BY POWER OF ATTORNEY HOLDER HER BROTHER E.M.STEPHEN, S/O.MATHEW, EDAPARYIL

HOUSE, POOZHIKOL P.O., APPANCHIRA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM-686141. 2 DEPUTY CHIEF ENGINEER (CONSTRUCTION), SOUTHERN RAILWAY, ERNAKULAM-682011. SRI.JOHN MATHEW,SC, RAILWAYS FOR R2 SRI.P.P.M.NAJEEB KHAN, SC, RAILWAYS FOR R2 SRI.S. BIJU FOR R2 07.03.2024, ALONG WITH LA.App..317/2015, 334/2015 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

LA.App.No.316/2015 & conn.cases 2 & LA.APP. NO. 317 OF 2015 AGAINST THE JUDGMENT AND DECREE DATED 29.11.2014 IN LAR NO.35 OF 2013 OF PRINCIPAL SUB COURT, KOTTAYAM ----- 1 STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM-686001. 2 THE SPECIAL TAHSILDAR L.A. (RAILWAY) KOTTAYAM-686001. BY GOVERNMENT PLEADER, SRI.T.K.SHAJAHAN

1 ABRAHAM, S/O. LATE CHANDY, RESIDING AT KALAPPURAYIL HOUSE, VELLASSERRY KARA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM DISTRICT, REPRESENTED BY POWER OF ATTORNEY HOLDER HER BROTHER E.M.STEPHEN, S/O.MATHEW, EDAPARYIL HOUSE, POOZHIKOL P.O., APPANCHIRA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM-686141. 2 DEPUTY CHIEF ENGINEER (CONSTRUCTION), SOUTHERN RAILWAY, ERNAKULAM-682011. SRI.JOHN MATHEW,SC, RAILWAYS FOR R2 SRI.P.P.M.NAJEEB KHAN, SC, RAILWAYS FOR R2 SRI.SREEJITH P.R. FOR R2

LA.App.No.316/2015 & conn.cases 3 & LA.APP. NO. 334 OF 2015 AGAINST THE JUDGMENT AND DECREE DATED 29.11.2014 IN LAR NO.17 OF 2013 OF PRINCIPAL SUB COURT, KOTTAYAM ----- 1 STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM. 2 THE SPECIAL TAHSILDAR LA (RAILWAY), KOTTAYAM. BY GOVERNMENT PLEADER, SRI.T.K.SHAJAHAN SRI.K.SHRI HARI RAO, SC, RAILWAYS RESPONDENTS/CLAIMANTS & 3RD RESPONDENT:

1 KARTHYAYANI, W/O.LATE VAVA MADHAVAN, MOOLAMKUZHIYIL @ KALAPPURAMYALIL HOUSE, VELLASSERRY KARA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM. 2 M.M.BALAN, S/O.LATE VAVA MADHAVAN, MOOLAMKUZHIYIL @ KALAPPURAMYALIL HOUSE, VELLASSERRY KARA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM.

3 M.M.SUMATHY, D/O.KARTHYAYANI, MOOLAMKUZHIYIL @ KALAPPURAMYALIL HOUSE, VELLASSERRY KARA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM. 4 M.M.SYAMALA, D/O.KARTHYAYANI, MOOLAMKUZHIYIL @ KALAPPURAMYALIL HOUSE, VELLASSERRY KARA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM. LA.App.No.316/2015 & conn.cases 4 5 DEPUTY CHIEF ENGINEER (CONSTRUCTION), SOUTHERN RAILWAY, ERNAKULAM.

SRI.DOMSON J.VATTAKUZHY FOR R1 TO R4 SRI.JOHN MATHEW,SC, RAILWAYS FOR R5 SRI.M.S.IMTHIYAZ AHAMMED, SC, RAILWAYS FOR R5 SRI.MATHEW JOHN K FOR R1 TO R4 LA.App.No.316/2015 & conn.cases 5 & LA.APP. NO. 358 OF 2015 AGAINST THE JUDGMENT AND DECREE DATED 29.11.2014 IN LAR NO.21/2013 OF PRINCIPAL SUB COURT, KOTTAYAM -----
1 STATE OF KERALA, REP.BY THE DISTRICT COLLECTOR, KOTTAYAM. 2 THE SPECIAL TAHSILDAR L.A. (RAILWAY), KOTTAYAM. BY SRI.T.K.SHAJAHAN, GOVERNMENT PLEADER

1 ELSAMMA ALEXANDER, W/O.ALEXANDER, KALAPPURA VEETIL, VELLASSERY KARA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM DISTRICT, PRESENTLY RESIDING AT 429 SUMMERLY N DRIVE VELERICD FLORIDA 3359 USA, REPRESENTED BY POWER OF ATTORNEY HOLDER HER BROTHER E.M. STEPHEN, S/O. MATHEW, EDAPARYIL HOUSE, POOZHICOL P.O., APPANCHIRA, KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM - 686 604.

2 DEPUTY CHIEF ENGINEER CONSTRUCTION SOUTHERN RAILWAY, ERNAKULAM - 682 011. SRI.JOHN MATHEW,SC, RAILWAYS FOR 2 SMT.MINI GOPINATH, CGC FOR R2 LA.App.No.316/2015 & conn.cases 6 & LA.APP. NO. 501 OF 2015 AGAINST THE JUDGMENT AND DECREE DATED 19.12.2014 IN LAR NO.41 OF 2013 OF PRINCIPAL SUB COURT, KOTTAYAM ----- 1 STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM. 2 THE SPECIAL TAHSILDAR L.A (RAILWAY), KOTTAYAM. BY SENIOR GOVERNMENT PLEADER, SRI.T.K.SHAJAHAN

1 JOSEPH, S/O.CHACKO, KAROTTU PERUMANA, VELLASSERY,KADUTHURUTHY P.O., KADUTHURUTHY VILLAGE, VAIKOM TALUK, KOTTAYAM DISTRICT - 686 604. 2 DEPUTY CHIEF ENGINEER (CONSTRUCTION), SOUTHERN RAILWAY, ERNAKULAM - 682 011. SRI.P.K.RAMKUMAR, SC, RAILWAYS FOR R2 SRI.S.KRISHNA FOR R2 LA.App.No.316/2015 & conn.cases 7 & LA.APP. NO. 176 OF 2017 AGAINST THE JUDGMENT AND DECREE DATED 31.08.2015 IN LAR NO.36 OF 2013 OF ADDITIONAL SUB COURT, KOTTAYAM -----

1 STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM 2 THE SPECIAL TAHSILDAR L.A.(RAILWAY), KOTTAYAM BY SENIOR GOVERNMENT PLEADER, SRI.T.K.SHAJAHAN RESPONDENTS/CLAIMANTS & 3RD RESPONDENT: 1 KUNJAN VAVA, PUNNATHANATHU VELLASSERY, KADUTHURUTHY-686604 2 KRISHNAN, PUNNATHANATHU VELLASSERY, KADUTHURUTHY-686604. 3 DEPUTY CHIEF ENGINEER (CONSTRUCTION), SOUTHERN RAILWAY, ERNAKULAM, PIN-682016.

SRI.DOMSON J.VATTAKUZHY FOR R1 AND R2 SRI.MATHEW JOHN K FOR R1 AND R2 SRI.M.S.IMTHIAZ AHAMMED, SC, RAILWAYS FOR R3 SHRI.C.DINESH, CGC FOR R3 LA.App.No.316/2015 & conn.cases 8 & LA.APP. NO. 48 OF 2016 AGAINST THE JUDGMENT AND DECREE DATED 31.08.2015 IN LAR NO.54 OF 2013 OF ADDITIONAL SUB COURT, KOTTAYAM ----- 1 STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM. 2 THE SPECIAL TAHSILDAR, L.A(RAILWAY), KOTTAYAM. BY

SENIOR GOVERNMENT PLEADER, SRI.T.K.SHAJAHAN 1 KURIAN, S/O.VARKEY, VAKKEL HOUSE, VELLASSERY, KADUTHURUTHY-686 604. 2 THE DEPUTY CHIEF ENGINEER (CONSTRUCTION), SOUTHERN RAILWAY, ERNAKULAM-682 011. SRI.JOHN MATHEW,SC, RAILWAYS FOR R2 SRI.P.K.SAJEEV, SC, RAILWAYS FOR R2 SRI.GIRISH KUMAR.V., CGC FOR R2

LA.App.No.316/2015 & conn.cases 9 & LA.APP. NO. 57 OF 2016 AGAINST THE JUDGMENT AND DECREE DATED 31.08.2015 IN LAR NO.32 OF 2013 OF ADDITIONAL SUB COURT, KOTTAYAM ----- 1 STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM. 2 THE SPECIAL TAHSILDAR, L.A. (RAILWAY), KOTTAYAM. BY SENIOR GOVERNMENT PLEADER, SRI.T.K.SHAJAHAN 1 MADHAVAN, S/O.SRI.KUNJAN VAVA, PUNNATHANATHU HOUSE, VELLASSERY KARA, KADUTHURUTHY-686604. 2 THE DEPUTY CHIEF ENGINEER(CONSTRUCTION), SOUTHERN RAILWAY, ERNAKULAM-682011. SRI.P.K.SAJEEV, SC, RAILWAYS FOR R2 SRI.JOHN MATHEW FOR R2 SRI.GIRISH KUMAR.V., CGC FOR R2 THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON LA.App.No.316/2015 & conn.cases 10

JUDGMENT

[LA.App. Nos.316/2015, 317/2015, 334/2015, 358/2015,

A. Muhamed Mustaque, J.

These matters are originally considered and disposed of in the light of the judgment in LA. App.No.303/2016. Thereafter, the judgment has been recalled for the reason that this Court in a batch of land acquisition appeals noted that in the same 'D' Category, award in LAR Nos.60/2013 and 90/2013, has been accepted. In all those cases, compensation was fixed by the reference court at Rs.2,47,000/- per Are and the requisition authority was satisfied with that award. Noting that, this Court disposed of the batch of cases holding that when the award has become final in respect of 'E' Category, in all other cases of 'D' Category are entitled to the

award fixed by the reference court. However, we note that the reference court changing the category from 'E to D', the award is only at Rs.1,85,250/- per Are, noting that we dismissed a batch of land acquisition appeals filed by the State as LA LA.App.No.316/2015 & conn.cases 11 App.No.372/2015 and connected cases. Following the above judgment, we dismiss these appeals. Sd/- A.MUHAMED MUSTAQUE JUDGE Sd/- SHOBA ANNAMMA EAPEN JUDGE In

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