

Fouziya vs the Project Director

Fouziya vs the Project Director

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Court : Kerala

Decided On : Jan-10-2024

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : WP(C)/21730/2023

Appellant : Fouziya

Respondent : The Project Director

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 10TH DAY OF JANUARY 2024 / 20TH POUSHA,
1945 WP(C) NO. 21730 OF 2023 PETITIONER: FOUZIYA AGED 40
YEARS W/O.ABDULLA B.A., BAPPAITHOTTY HOUSE, UPPALA
VILLAGE, P.O. UPPALA, MANJESHWAR TALUK, KASARAGOD
DISTRICT - 671 322. BY ADVS. PUSHPARAJAN KODOTH K.JAYESH
MOHANKUMAR VANDANA MENON VIMAL VIJAY RESPONDENTS: 1
THE PROJECT DIRECTOR NATIONAL HIGHWAYS AUTHORITY OF
INDIA, H NO. XXIII/752, NEAR CSI CHURCH, MISSION COMPOUND,
MELACOVVA, KANNUR DISTRICT, KERALA, PIN - 670 006 2 THE
DISTRICT COLLECTOR KASARAGOD & ARBITRATOR NATIONAL

HIGHWAY AUTHORITY OF INDIA, KASARAGOD, PIN - 671 121 3
SPECIAL DEPUTY COLLECTOR LAND ACQUISITION (NH),
KASARAGOD & COMPETENT AUTHORITY, PIN - 671 121 4 THE
SPECIAL TAHSILDAR LAND ACQUISITION (NH), UNIT - 1,
KASARAGOD, PIN - 671 121 BY ADVS. MATHEWS K.PHILIP
MATHEWS K.PHILIP KALAPPURACKAL PHILIPOSE DEEPA
NARAYANAN, SR.GOVERNMENT PLEADER THIS WRIT PETITION
(CIVIL) HAVING COME UP FOR ADMISSION ON 10.01.2024, ALONG
WITH WP(C).21794/2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: WP(C)NO.21730/2023 & conn. 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 10TH DAY OF JANUARY 2024 / 20TH POUSHA,
WP(C) NO. 21794 OF 2023 PETITIONER: JAMEELA AGED 40 YEARS
W/O. LATE ABDULRAHIMAN, KOLAPADPU HOUSE, SONKAL,
KODIBAIL VILLAGE, P.O. UPPALA, MANJESHWAR TALUK,
KASARAGOD DISTRICT, PIN - 671322 BY ADVS. PUSHPARAJAN
KODOTH K.JAYESH MOHANKUMAR VANDANA MENON VIMAL
VIJAY RESPONDENTS: 1 THE PROJECT DIRECTOR NATIONAL
HIGHWAYS AUTHORITY OF INDIA, H NO. XXIII/752, NEAR CSI
CHURCH, MISSION COMPOUND, MELACOVVA, KANNUR DISTRICT,
KERALA,PIN - 670006

2 THE DISTRICT COLLECTOR KASARAGOD & ARBITRATOR NATIONAL
HIGHWAY AUTHORITY OF INDIA, KASARAGOD, PIN - 671121 3 SPECIAL
DEPUTY COLLECTOR LAND ACQUISITION (NH), KASARAGOD &
COMPETENT AUTHORITY, PIN - 671121 4 THE SPECIAL TAHSILDAR LAND
ACQUISITION (NH), UNIT - 1, KASARAGOD, PIN - 671121
WP(C)NO.21730/2023 & conn. 3 BY ADVS. MATHEWS K.PHILIP MATHEWS
K.PHILIP KALAPPURACKAL PHILIPOSE DEEPA NARAYANAN,
SR.GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP
FOR ADMISSION ON 10.01.2024, ALONG WITH WP(C).21730/2023, THE

COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
WP(C)NO.21730/2023 & conn. 4

JUDGMENT

[WP(C) Nos.21730/2023, 21794/2023] Dated this the 10th day of January, 2024
Petitioners have approached this Court seeking a direction to the second
respondent to award compensation to the petitioners for the residential apartment
based on Ext.P3.

2. When the matter was taken up for consideration,

it was brought to my notice the order passed by the arbitrator, the second
respondent -District Collector, in respect of the petitioner in W.P.(C) No.21794 of
2023, wherein it is held that the petitioner is eligible to get an amount of
Rs.21,53,926/- with 100% solatium being the compensation for the flat owned by
her whereas in respect of W.P.(C)No.21730 of 2023, the petitioner submits that
similar order has been issued by the second respondent wherein also the
petitioner therein was found to be eligible to get Rs.21,53,926/- with 100%
solatium being the compensation for the flat owned by her. Petitioners submit that
in view of the orders passed by the second respondent, there may be a direction
to the third respondent to disburse WP(C)NO.21730/2023 & conn. 5 the
compensation amount to the petitioners therein.

3. Learned Government Pleader, upon instructions,

submitted that the amount due to the petitioners as awarded in Ext.P1 and in the
order passed in respect of the petitioner in W.P.(C) No.21730 of 2023, will be
disbursed to the petitioners without much delay and at least four months time
being granted for disbursal of the same.

4. After hearing both sides, I am inclined to dispose of the Writ Petitions with a
direction to the third respondent in Writ Petition No.21794 of 2023 to disburse the
amount

due to the petitioners as provided in Ext.P11 and the order

of a similar nature passed in respect of the petitioner in W.P.(C) No.21730 of 2023, as expeditiously as possible, at any rate, within an outer limit of three months from the date of receipt of a copy of this judgment. Writ Petitions are disposed of with the above directions. Sd/- VIJU ABRAHAM JUDGE csl WP(C)NO.21730/2023 & conn. 6 APPENDIX OF WP(C) 21794/2023 PETITIONER'S EXHIBITS Exhibit P1 TRUE COPY OF THE AWARD IN LAC NO. 158/UPPALA DATED 11.01.2021 PASSED BY THE 3RD RESPONDENT. Exhibit P2 TRUE COPY OF THE STRUCTURAL VALUE AND THE PLAN PREPARED BY THE ASST. EXECUTIVE ENGINEER, PWD BUILDING SUB DIVISION, KASARAGOD. Exhibit P3 TRUE COPY OF THE PETITION DATED

18.12.2021 SUBMITTED BY THE PETITIONER UNDER SECTION 3G(5) OF THE NATIONAL HIGHWAYS ACT, 1956 TO THE 2ND RESPONDENT FOR ASSESSMENT OF THE STRUCTURAL VALUE AND FOR AWARDING COMPENSATION TO THE RESIDENTIAL APARTMENT OWNED BY THE PETITIONER.

Exhibit P4 TRUE COPY OF THE PHOTOGRAPHS OF THE SHOP BUILDING AND THE 1ST AND 2ND FLOOR OF THE RESIDENTIAL APARTMENT. Exhibit P5 TRUE COPY OF THE JUDGMENT DATED 30.05.2022 IN W.P(C) NO. 16636/2022 ON THE FILE OF THIS HON'BLE COURT. Exhibit P6 TRUE COPY OF THE LETTER SENT BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT DATED 03.11.2022. Exhibit P7 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 18.01.2023. Exhibit P8 PHOTOGRAPH SHOWING THE BUILDING IN WHICH THE PETITIONER'S RESIDENTIAL APARTMENT. Exhibit P9 PHOTOGRAPH SHOWING THE CONSTRUCTION WORK CARRIED OUT IN RESPECT OF THE WP(C)NO.21730/2023 & conn. 7

DRAINAGE ON THE SIDE OF THE NATIONAL HIGHWAY 66 AND ON THE SIDE OF THE BUILDING IN WHICH THE PETITIONER'S RESIDENTIAL APARTMENT IS SITUATED. Exhibit P10 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 26.05.2023.

Exhibit P11 TRUE COPY OF THE ORDER AS ORDER

NO.NH/ARBT/KSD/372/2021 & LAC 158/UPPALA DATED 17.10.2023 PASSED BY THE 2ND RESPONDENT. WP(C)NO.21730/2023 & conn. 8 APPENDIX OF WP(C) 21730/2023 PETITIONER'S EXHIBITS Exhibit P1 TRUE COPY OF THE AWARD IN LAC NO. 158/UPPALA DATED 11.01.2021 PASSED BY THE 3RD RESPONDENT. Exhibit P2 TRUE COPY OF THE STRUCTURAL VALUE AND THE PLAN PREPARED BY THE ASST. EXECUTIVE ENGINEER, PWD BUILDING SUB DIVISION, KASARAGOD. Exhibit P3 TRUE COPY OF THE PETITION DATED

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