

Abusa Beevi vs the Arbitrator

Abusa Beevi vs the Arbitrator

SooperKanoon Citation : sooperkanoon.com/1302003

Court : Kerala

Decided On : Apr-01-2024

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : WP(C)/31518/2023

Appellant : Abusa Beevi

Respondent : The Arbitrator

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
MONDAY, THE 1ST DAY OF APRIL 2024 / 12TH CHAITHRA, 1946
WP(C) NO. 31518 OF 2023 PETITIONERS: 1 ABUSA BEEVI, AGED 76
YEARS W/O ABDUL SAMAD, AGED 76 YEARS, RESIDING AT
KADAVIL PADINJATTETHIL, MYLAKKADU P.O, KOLLAM DISTRICT,
PIN - 691571 --- DIED ADDITIONAL PETITIONERS 2 TO 4 2 SALIM. A,
AGED 55 YEARS S/O ABDUL SAMAD, RESIDING AT KADAVIL
PADINJATTETHIL, ITHIKKARA, MYLAKKADU P.O, KOLLAM
DISTRICT PIN 691571 3 SALEENA BEEGUM , AGED 58 YEARS D/O
ABDUL SAMAD , RESIDING AT KADAVIL PADINJATTETHIL PUTHEN
VEEDU, ITHIKKARA, MYLAKKADU, KOLLAM DISTRICT PIN 691571

4 ABDUL SALAM , AGED 52 YEARS S/O ABDUL SAMAD, FATHIMA MANZIL, ITHIKKARA, MYLAKKADU, KOLLAM PIN 691571 ADDL.PETITIONERS 2 TO 4 WHO ARE LEGAL HEIRS OF ORIGINAL PETITIONER ARE IMPEADED AS PER ORDER DATED 5.2.2024 IN IA

BY ADVS. A.JANI(KOLLAM) NISA FASIL(KOLLAM) RESPONDENTS: 1 THE ARBITRATOR,THE DISTRICT COLLECTOR, (APPOINTED UNDER SECTION 3(5) OF THE NATIONAL HIGHWAYS ACT) KOLLAM DISTRICT, COLLECTORATE, CIVIL STATION, KOLLAM, PIN - 691001 2 AUTHORISED OFFICER/ DEPUTY COLLECTOR (LAND ACQUISITION - NATIONAL HIGHWAYS) COLLECTORATE, CIVIL STATION, KOLLAM, PIN - 691001 W.P (C) Nos.31518 & 34957 of 2023 2 3 THE COMPETENT AUTHORITY (LAND ACQUISITION), NATIONAL HIGHWAY, THE SPECIAL DEPUTY COLLECTOR, LAND ACQUISITION (NATIONAL HIGHWAYS) VADAKKEVILA P.O, KOLLAM, PIN - 691010 4 THE PROJECT OFFICER, NATIONAL HIGH WAY-66, OFFICE OF NATIONAL HIGH WAY PROJECT OFFICER, BEACH ROAD, THAMARAKULAM KOLLAM, PIN - 691001

R4 BY BY ADV E.C.KURIAKOSE GP SMT.DEEPA V. ADV.B.G.BIDAN CHANDRAN THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01.04.2024, ALONG WITH WP(C).34957/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P (C) Nos.31518 & 34957 of 2023 3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM MONDAY, THE 1ST DAY OF APRIL 2024 / 12TH CHAITHRA, 1946 WP(C) NO. 34957 OF 2023 PETITIONERS: 1 ABUSA BEEVI (EXPIRED), AGED 75 YEARS,W/O ABDUL SAMAD, AGED 76 YEARS, RESIDING AT KADAVIL PADINJATTETHIL, MYLAKKADU P.O, KOLLAM DISTRICT, PIN - 691571

ADDL.P2 TO P4 ADDL.P2 SALIM. A., AGED 55 YEARS, S/O ABDUL SAMAD, RESIDING AT KADAVIL PADINJATTETHIL, ITHIKKARA, MYLAKKADU P.O, KOLLAM DISTRICT PIN 691 571 ADDL.P3 SALEENA BEEGUM, AGED 58 YEARS, D/O ABDUL SAMAD , RESIDING AT KADAVIL PADINJATTETHIL PUTHEN VEEDU, ITHIKKARA, MYLAKKADU, KOLLAM DISTRICT PIN 691 571. ADDL.P4 ABDUL SALAM, AGED 52 YEARS, S/O ABDUL SAMAD, FATHIMA

MANZIL, ITHIKKARA, MYLAKKADU, KOLLAM PIN 691571. [ADDL.P2 TO P4 ARE IMPEADED AS PER ORDER DATED 05.03.2024 IN I.A-1/2024 IN WP(C) 34957/2023] BY ADVS. A.JANI(KOLLAM) Jani,A.JANI(KOLLAM) NISA FASIL(KOLLAM) RESPONDENTS: 1 THE ARBITRATOR, THE DISTRICT COLLECTOR, (APPOINTED UNDER SECTION 3(5) OF THE NATIONAL HIGHWAYS ACT) KOLLAM DISTRICT, COLLECTORATE, CIVIL STATION, KOLLAM, PIN - 691001

2 AUTHORISED OFFICER/ DEPUTY COLLECTOR (LAND ACQUISITION - NATIONAL HIGHWAYS) COLLECTORATE, CIVIL STATION, KOLLAM, PIN - 691001 3 THE COMPETENT AUTHORITY (LAND ACQUISITION), NATIONAL HIGHWAY W.P (C) Nos.31518 & 34957 of 2023 4 THE SPECIAL DEPUTY COLLECTOR, LAND ACQUISITION (NATIONAL HIGHWAYS) VADAKKEVILA P.O, KOLLAM, PIN - 691010 4 THE PROJECT OFFICER, NATIONAL HIGHWAY-66, OFFICE OF NATIONAL HIGHWAY PROJECT OFFICER, BEACH ROAD, THAMARAKULAM KOLLAM, PIN - 691001

5 THE DEPUTY COLLECTOR LAND ACQUISITION, COLLECTORATE, KOLLAM, PIN - 691001 ADV E.C.KURIAKOSE ADV.B.G. BIDAN CHANDRAN OTHER PRESENT: GP - DEEPA V THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01.04.2024, ALONG WITH WP(C).31518/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P (C) Nos.31518 & 34957 of 2023 5

VIJU ABRAHAM, J.

..... W.P (C) Nos.31518 & 34957 of 2023
..... Dated this the 1st day of April, 2024

JUDGMENT

W.P.(C) No.31518 of 2023

1. Aggrieved by Ext.P9 petitioners have preferred Ext.P15 under

Section 3G(5) of the National Highways Act, 1956 before the Arbitrator and they seek for an expeditious disposal of the same. Petitioners submit that Ext.P16 interim application has also been preferred before the Arbitrator which is also pending consideration before the said authority. W.P.(C) No.34957 of 2023

2. The grievance raised by the petitioners is against Ext.P17. The specific contention raised by the petitioners is that after issuance of Ext.P9 the competent authority cannot pass any award in the nature of Ext.P17.

3. The learned Government Pleader upon instructions submitted that

by Ext.P14 judgment in W.P.(C) No.6857 of 2022 this Court has directed the petitioner to move before the District Collector, the designated Arbitrator under Section 3G(5) if she is aggrieved by the award already passed. But in the last portion of the judgment this Court has directed that if there is any admitted amount the same shall be disbursed to the W.P (C) Nos.31518 & 34957 of 2023 6 petitioner. Learned Government Pleader submits that it is in compliance of the directions in the last portion of Ext.P14 judgment that Ext.P17 has been issued. However the petitioners would submit that the matter may be decided in its entirety while deciding Ext.P15 filed before the Arbitrator and Ext.P17 may be interfered with. Accordingly Ext.P17 produced in W.P.(C) No.34957 of 2023 is set aside with a direction to the 1 st respondent District Collector/Arbitrator to take up Exts.P15 and P16 submitted by the petitioners and finalise the proceedings thereon within an outer limit of nine months from the date of receipt of a copy of the judgment, with notice to the petitioners. With the abovesaid directions the writ petitions are disposed of. Sd/- VIJU ABRAHAM JUDGE cks W.P (C) Nos.31518 & 34957 of 2023 7 APPENDIX OF WP(C) 31518/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF PATTa ISSUED BY TAHSILDAR, KOLLAM IN L.A NO: 6/94 UNDER RULE 9(2) OF THE KERALA Exhibit P2 A TRUE COPY OF THE PLAN

PREPARED BY THE ASSIGNMENT AUTHORITY AT THE TIME OF ISSUANCE
OF EXHIBIT P 1 Exhibit P3 TRUE COPY OF THE RE-SURVEY PLAN

REGARDING PROPERTIES COVERED UNDER RE- SURVEY NO: 467/2 IN
BLOCK NO: 22 OF THE ADICHANALLOORE VILLAGE

Exhibit P4 A TRUE COPY OF THE BASIC TAX RECEIPT DATED 14/07/2020
ISSUED BY ADICHANALLOORE VILLAGE OFFICE Exhibit P5 A TRUE COPY
OF POSSESSION CERTIFICATE NO: 690/2020, Exhibit P6 A TRUE COPY OF
THE ENCUMBRANCE CERTIFICATE FOR THE PERIOD FROM FROM THE
KOTTIYAM S.R.O Exhibit P7 TRUE COPY OF NOTICE DATED 12/01/2021
ISSUED NOTICE NO: LAC 456/2020 ISSUED BY THE 2ND RESPONDENT TO
THE PETITIONER Exhibit P8 TRUE COPY OF WRIT PETITION(C) NO THIS
HON'BLE COURT Exhibit P9 TRUE COPY OF AWARD PASSED BY THE 3RD
RESPONDENT ADNR 0612 DATED 26/03/2022 Exhibit P10 TRUE COPY OF
ORDER DATED 28/10/2022 IN I.A NO. 4 OF 2022 IN W.P. (C) NO. 6857 OF 2022
BEFORE THIS HON'BLE COURT Exhibit P11 TRUE COPY OF ORDER DATED
03/08/2022 IN I.A. NO. 2 OF 2022 IN WP(C) NO 6857/2022 W.P (C) Nos.31518 &
34957 of 2023 8 BEFORE THIS HON'BLE COURT Exhibit P12 TRUE COPY OF
REPORT FILED BY THE TAHSILDAR, KOLLAM DATED 08/02/2023 IN WP(C)
NO 6857/2022 BEFORE THIS HON'BLE COURT Exhibit P13 TRUE COPY OF
ORDER DATED 23/05/2023 IN WP(C) NO 6857/2022 BEFORE THIS HON'BLE
COURT Exhibit P14 TRUE COPY OF JUDGEMENT DATED 15/06/2023 IN
WP(C) NO 6857/2022 BEFORE THIS HON'BLE COURT Exhibit P15 TRUE COPY
OF ARBITRATION CASE FILED BY THE PETITIONER BEFORE THE 1ST
RESPONDENT DATED 12/07/2023 Exhibit P16 A TRUE COPY OF THE
PETITION WITH RECEIPT NO. 3904/23 DATED 23/09/2023 W.P (C) Nos.31518
& 34957 of 2023 9 APPENDIX OF WP(C) 34957/2023 PETITIONER EXHIBITS
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Exhibit P13 A TRUE COPY OF ORDER DATED 23/05/2023 IN W.P. (C) NO. 6857
OF 2022 BEFORE THIS HON'BLE COURT Exhibit P14 A TRUE COPY OF
JUDGEMENT DATED BEFORE THIS HON'BLE COURT Exhibit P15 A TRUE
COPY OF ARBITRATION CASE FILED BY THE PETITIONER BEFORE THE
ARBITRATOR Exhibit P16 A TRUE COPY OF THE PETITION WITH RECEIPT
NO. 3904/23 DATED 23/09/2023 FILED BEFORE THE ARBITRATOR Exhibit P17
A TRUE COPY OF THE AWARD DATED PASSED BY THE SPECIAL DEPUTY
COLLECTOR Exhibit P18 A TRUE COPY OF REPRESENTATION DATED Exhibit
P19 A TRUE COPY OF NOTICE ISSUED BY THE 4TH RESPONDENT DATED
10/10/2023

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