

Babu vs the Court of Arbitrator (National Highways Act, 1956) & District Collector,

Babu vs the Court of Arbitrator (National Highways Act, 1956) & District Collector,

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Court : Kerala

Decided On : Nov-07-2023

Judge : Honourable Mr.Justice Murali Purushothaman

Appeal No. : WP(C)/36791/2023

Appellant : BABU

Respondent : The Court of Arbitrator (National Highways Act, 1956) & District Collector,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI
PURUSHOTHAMAN TUESDAY, THE 7TH DAY OF NOVEMBER 2023 /
16TH KARTHIKA, 1945 WP(C) NO.36791 OF 2023 PETITIONER:
BABU, AGED 47 YEARS, S/O.KELU, CHERUVATTIL HOUSE,
PANCHARAKULAM, NARIKODE, EZHOME VILLAGE, KOTTILA P.O.,
KANNUR, PIN - 670334 BY ADVS. MATHEW KURIAKOSE G.GIREESH
T.G.SUNIL (PERUMBAAVOOR) J.KRISHNAKUMAR (ADOOR)
C.N.PRAKASH MONI GEORGE SHAJI P.K. RESPONDENTS:

1 THE COURT OF ARBITRATOR (NATIONAL HIGHWAYS ACT, 1956)
& DISTRICT COLLECTOR, CIVIL STATION, KANNUR, PIN - 670002 2
THE SPECIAL DEPUTY COLLECTOR LA (NHAI) AND COMPETENT
AUTHORITY, KANNUR @ TALIPARAMBA, KANNUR, PIN - 670141 3
NATIONAL HIGHWAY AUTHORITY OF INDIA, REPRESENTED BY
PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT -
KANNUR, H.NO.XXIII/752, NEAR CSI CHURCH, MISSION
COMPOUND, MELE CHOWA, KANNUR DISTRICT, PIN - 670006 BY
SMT.DEEPA NARAYANAN, SR.GOVERNMENT PLEADER SRI.LEJO
JOSEPH GEORGE, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07.11.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: WP(C) No.36791 of 2023 2

JUDGMENT

The petitioner has filed this writ petition challenging Ext.P5 award passed by the District Collector, Kannur, the arbitrator under the National Highways Act, 1956 [for brevity, 'the N.H Act'] dismissing the arbitration application of the petitioner.

2. Heard the learned counsel for the petitioner, the learned Senior Government Pleader and the learned Standing Counsel appearing for the National Highway Authority of India.

3. Section 3A of the N.H Act deals with the

power of the Central Government to acquire land. Section 3G deals with determination of amount payable as compensation. Section 3G(5) of the N.H Act provides that if there is any dispute regarding the amount of compensation determined by WP(C) No.36791 of 2023 3 the competent authority, it shall be resolved by the arbitrator and the provisions of the Arbitration and Conciliation Act, 1996 [for brevity, the Arbitration Act] shall apply to such arbitration.

4. Under the provisions of the Arbitration Act, the remedy of the petitioner is to challenge the final award invoking the provisions of Section

34. Section 5 of the Arbitration Act reads as follows:

5. Extent of judicial intervention - Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part.

In view of the non obstante clause under Section 5 of the Arbitration Act, the Courts WP(C) No.36791 of 2023 4 intervention in arbitration proceedings shall be minimal. I do not find any reason to interfere with Ext.P5 award exercising the jurisdiction under Article 226 of the Constitution of India and accordingly, the writ petition is dismissed, without prejudice to the right of the petitioner to avail other remedies available in law. Sd/- MURALI PURUSHOTHAMAN JUDGE sp/07/11/2023 WP(C) No.36791 of 2023 5 APPENDIX PETITIONER'S EXHIBITS:- EXHIBIT P 1 A TRUE COPY OF THE SKETCH PREPARED BY

THE PETITIONER SHOWING THE PORTION OF PROPERTY ACQUIRED AND THE BALANCE EXTENT OF PROPERTY REMAINING IN THE POSSESSION OF THE PETITIONER EXHIBIT P 2 TRUE COPY OF THE RELEVANT PAGES OF THE PROCEEDINGS DATED 26.03.2018 OF THE COMPETENT AUTHORITY & SPECIAL DEPUTY COLLECTOR, LA (NHAI) KANNUR @ TALIPARAMBA EXHIBIT P 3 TRUE COPY OF THE NOTICE DATED

26.03.2018 ISSUED BY THE SPECIAL DEPUTY COLLECTOR, LANHAI KANNUR @ TALIPARAMBA & THE COMPETENT AUTHORITY TO THE PETITIONER UNDER SECTION 3E(1) OF THE NATIONAL HIGHWAYS ACT, 1956 EXHIBIT P 4 TRUE COPY OF THE INTIMATION DATED 26.03.2018 ISSUED BY THE SPECIAL DEPUTY COLLECTOR, LANHAI KANNUR @ TALIPARAMBA & THE COMPETENT AUTHORITY TO THE PETITIONER UNDER SECTION 3H(2) OF THE NATIONAL HIGHWAYS ACT, 1956 EXHIBIT P 5 TRUE COPY OF THE ORDER DATED 17.06.2023 OF THE COURT OF THE 1ST RESPONDENT, THE ARBITRATOR (NATIONAL HIGHWAYS ACT, 1956) AND DISTRICT COLLECTOR, KANNUR IN A.P. NO. 303/2018/LAC 2603/EZHOME

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