

V.Rajeev vs State of Kerala

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Court : Kerala

Decided On : Apr-27-2021

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : WP(C)/1173/2021

Appellant : V.Rajeev

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 27TH DAY OF APRIL 2021 / 7TH VAISAKHA, 1943 PETITIONER/S: V.RAJEEV AGED 67 YEARS UTHAMAM, L. 93 LIC LANE, PATTOM P.O, THIRUVANANTHAPURAM 695 004 BY ADVS. SRI.S.M.PREM SRI.P.RAMACHANDRAN (PALAKKAD) SRI.H.NARAYANAN RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, INDUSTRIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM, CIVIL STATION, KUDAPPANAKUNNU,

THIRUVANANTHAPURAM 695 043 3 THE SPECIAL TAHSILDAR (LAND ACQUISITION), SREE PANDARAVAKA LANDS, NO. III CIVIL STATION, KUDAPPANAKUNNU, THIRUVANANTHAPURAM 695 043 4 KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD, (KSIDC) REPRESENTED BY ITS MANAGING DIRECTOR, KESTON ROAD, KOWDIAR, THIRUVANANTHAPURAM 695 003 R4 BY ADV. SRI.P.U.SHAILAJAN GOVERNMENT PLEADER, SMT. PRINCY XAVIER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

27.04.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Properties of the petitioner and his family members are subject to acquisition proceedings for the purpose of setting up a Life Science Park project of the 4 th respondent - KSIDC. Though the proceedings were initiated under the Land Acquisition Act, 1894, as per Section 41 notification issued on 26-11-2008, the same did not culminate in an award even by 2013.

2. With the enactment of the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (for short the Act), petitioner obtained a vested right under the enactment to have the acquisition proceedings continued under the new Statute. It is submitted by the petitioner that all formalities till passing of the award under the new statute has been completed. This court had, in fact, in Ext.P4 judgment directed

completion of the process of passing of award after negotiation with the petitioner is carried out. Petitioner, therefore, seeks a mandamus directing the respondents to pass an award in terms of Form 12 of RFCTLARR Kerala Rules, 2015 read with the Act.

3. In the counter affidavit filed by the 4th respondent,

it is stated that negotiated purchase with the petitioner is not possible and hence, the only remedy is to pass the award in accordance with law. It is also stated in the counter affidavit that an award in Form No.12 can be passed only if the award is passed under the Act. It is also stated that in Form No.12, there is a specific column regarding interest from the date of

order for social impact assessment study and since the

original notification issued for acquisition was under the erstwhile Act, there was no social impact assessment study, and hence the award cannot be passed in Form No.12, but must be under section 24 of the Act.

4. I have heard the Counsel for the Petitioner as well as the Counsel for the Respondents including the learned Government Pleader.

5. The question as to whether the award must be one

passed under Form No.12 of the Kerala Rules or must be one under section 24 of the Act is for the Authority that passes the award to decide. If either of the parties are aggrieved by the nature of the award passed or the provision of law under which it is passed, the same is a matter to be taken up in statutory proceedings. Even before an Award is passed, it would not be proper for this Court to direct the manner in which the Award is to be passed or the provision of law under which it is to be passed.

In the circumstances, there will be a direction to the 3rd

respondent to pass the land acquisition Awards relating to the property of the petitioner and his family members, which are under process of acquisition for the Life Sciences Park, in terms of the provisions of the Act, as expeditiously as possible, after affording an opportunity of being heard to the persons interested.

The writ petition is allowed in part as above SD/- BECHU KURIAN THOMAS
JUDGE RK APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY
OF THE ORDER DATED 06.01.2017 IN SLP(C)NO.8079-8082/2016. EXHIBIT P2
TRUE COPY OF THE JUDGMENT DATED 05.05.2016 PASSED BY THE APEX

COURT IN CIVIL APPEAL NO.4821/2016. EXHIBIT P3 TRUE COPY OF G.O.(RT)NO.907/2017/RD DATED 03.03.2017. EXHIBIT P4 TRUE COPY OF THE JUDGMENT DATED 12.05.2017 PASSED IN W.P(C)NOS.15942 AND 16113 OF 2017. EXHIBIT P5 TRUE COPY OF THE CONSENT LETTER DATED 12.11.2020 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT-DISTRICT COLLECTOR FOR PASSING AWARD IN FORM 12. RESPONDENT'S/S EXHIBITS:NIL

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