

Sukumaran E.K vs the District Collector CIVIL Station

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Court : Kerala

Decided On : Oct-29-2021

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/7474/2020

Appellant : Sukumaran E.K

Respondent : The District Collector CIVIL Station

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN FRIDAY, THE 29TH DAY OF OCTOBER 2021 / 7TH KARTHIKA, 1943 WP(C) NO. 7474 OF 2020 PETITIONERS: 1 SUKUMARAN E.K AGED 60 S/O.LATE KRISHNAN NAIR, EDESSERYKUDIYIL HOUSE, MULAVOOR.P.O, MUVATTUPUZHA-686673,ERNAKULAM DISTRICT. 2 MUKUNTHAN.K.P, AGED 62 YEARS S/O.LATE PAAPPI, KAVUMKAL HOUSE, PERUMBALLOOR.P.O, MUVATTUPUZHA-686673, ERNAKULAM DISTRICT. BY ADVS. L.RAM MOHAN SRI.M.AUBREY ABRAHAM ISAAC RESPONDENTS: 1 THE DISTRICT COLLECTOR CIVIL STATION ERNAKULAM-682030. 2 THE SUPERINTENDING

ENGINEER, KERALA STATE TRANSPORT PROJECT, THIRUVANANTHAPURAM-695001. 3 THE TAHASILDAR LA-NH-1 AND CIVIL STATION, KAKANADU-682030. BY ADV GOVERNMENT PLEADER SRI.JAFAR KHAN- SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 29th day of October, 2021. The petitioner impugns Ext.P5 order issued by

the District Collector, rejecting his request for the benefits under the Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as Fair Compensation Act), solely on the ground that the Award, with respect to the property acquired under the provisions of the Land

Acquisition Act, was issued on 17.07.2017; while Ext.R1(a) Government Order, making the benefits sought for by the petitioner applicable, was issued much later on 29.12.2017,

2. The petitioner asserts that the above stand

taken by the District Collector in Ext.P5 is illegal, since, even prior to Ext.R1(a) having been issued, the provisions of the Fair Compensation Act, had become applicable statutorily; and, therefore, that the District Collector was enjoined to consider his claim on its merits, rather than have rejected it based on the date of Ext.R1(a).

3. Sri.Jafar Khan - learned Government Pleader,

conceded that even without Ext.R1(a) being made applicable, the petitioner is entitled to be granted benefits subject to all criterion and qualifications being satisfied under the provisions of the Fair Compensation Act. He submitted that, therefore, the District Collector can certainly reconsider the matter; but argued

that, if the petitioner is to obtain any benefit, he must qualify as per the twin criterion under Section 3C(2) of the Fair

Compensation Act. He contented that it is only if the petitioner or his family does not own any other land, can he even claim any benefit under the Fair Compensation Act. He, therefore prayed that this Court may allow there aspects also to be considered by the District Collector in terms of law.

4. In reply, Sri.L.Ram Mohan - learned counsel for

the petitioner, submitted that the afore contentions of the learned Government Pleader are not accurate, if one examines the provisions of Section 3C(6) of the Fair Compensation Act; and thus prayed that the District Collector be directed to advert to this provision also. Taking note of the afore submissions, I order this writ petition and set aside Ext.P5; with a consequential direction to the District Collector to reconsider the claim of the petitioner from the touchstone of Section 3C(2) of the Fair to Compensation Act and after affording him an opportunity of being heard; thus culminating in an appropriate order thereon, as expeditiously as is possible, but not later than two months from the date of receipt of a copy of this judgment. Needless to say, the dialectical contentions of the parties on the various provisions of Section 3 of the 'Fair Compensation Act, including Section 3C(6) thereof, will be adverted to and specifically taken note of by the District Collector and his opinion recorded in the resultant

order.

Sd/- DEVAN RAMACHANDRAN JUDGE Raj/29.10.2021. APPENDIX OF WP(C) 7474/2020 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE CERTIFICATE ISSUED BY THE ASSISTANT LABOUR OFFICER MUVATTUPUZHA DATED 26/11/18 EXHIBIT P2 TRUE COPY OF THE REQUEST OF THE EMPLOYER DATED 14/6/18 EXHIBIT P3 TRUE COPY CLAIM MADE BY THE 1ST PETITIONER 8.2.2017. EXHIBIT P4 TRUE COPY CLAIM MADE BY THE 2ND PETITIONER 8.2.17 EXHIBIT P5 COPY OF THE ORDER DATED 26/11/19 BY 1ST RESPONDENT REJECTING PETITIONERS CLAIM.

