

Suharabi Vs. Special Tahsildar

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Court : Kerala

Decided On : Nov-03-2009

Reported in : 2010(1)KLT15

Judge : Thottathil B. Radhakrishnan, J.

Acts : [Land Acquisition Act, 1894](#) - Section 28A(1); ;[General Clauses Act, 1897](#) - Section 3(35)

Appeal No. : W.P. (C) No. 31229 of 2009

Appellant : Suharabi

Respondent : Special Tahsildar

Advocate for Def. : I.V. Pramod, Government Pleader

Advocate for Pet/Ap. : Suresh Kumar Kodoth, Adv.

Disposition : Petition allowed

Judgement :

Thottathil B. Radhakrishnan, J.

1. Petitioner applied for re-determination of compensation under Section 28A(1) of the [Land Acquisition Act, 1894](#). That was rejected as time-barred. Hence, this Writ Petition.

2. Heard learned Counsel for petitioner and learned Government Pleader.

3. Petitioner applied on 20th November, 2004 relying on an award passed by the Court on 21st August, 2004. Section 28A(1) of the L.A. Act provides that the written application under that provision shall be made within three months from the date of the award of the Court. The word 'month' is not defined in the L.A. Act. Therefore, the definition of that term in Section 3(35) of the [General Clauses Act, 1897](#) applies. Hence, the month has to be reckoned according to the British Calendar. Therefore, the period of three months for the purpose of an application under Section 28A(1) has to be reckoned according to the British Calendar, applying Section 3(35) of the General Clauses Act. The award of court relied on by the petitioner was delivered on 21st August, 2004. By the proviso to Section 28A(1) of the L.A. Act, the date of pronouncement of the award by the court shall be excluded in computing the period of three months. Therefore, the period of three months for the petitioner to apply under Section 28A(1) on the basis of the award relied on by her ends on 22nd November, 2004. The petitioner's application filed on 20th November, 2004 was, therefore, well within time.

4. For the aforesaid reasons, the impugned order does not stand. It is accordingly quashed. The first respondent will take up the application of the petitioner and render decision on it, on merits.

The Writ Petition is allowed as above.

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