

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE
&
THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

Tuesday, the 8th day of April 2025 / 18th Chaithra, 1947

WA NO. 1784 OF 2023

AGAINST JUDGMENT DATED 30.03.2023 IN WP(C) 10664/2023 OF THIS COURT
APPELLANTS/PETITIONERS:::

1. CHANDRAMOHANAN K.C, AGED 59 YEARS, INDEEVARAM, ERUVA, KAREELAKULANGARA.P.O, ALAPPUZHA DISTRICT, PIN - 690572
2. M ABOOBACKER, AGED 68 YEARS, VELLALIL, KEERIKKAD.P.O., KAYAMKULAM, ALAPPUZHA DISTRICT., PIN - 690502
3. MINI R, AGED 46 YEARS, D/O CHANDRASEKHARAN NAIR, MOODAMPADIYIL, KAREELAKULANGARA.P.O, ALAPPUZHA DISTRICT., PIN - 690572
4. M.K YOUSAF, AGED 50 YEARS, S/O MUHAMMED KUNJU AYANTEKALAM (MKYMANZIL) THOTTAPPALLY, PURAKKAD P.O, ALAPPUZHA DISTRICT., PIN - 688561

BY ADVS.M/S.P.SATHISAN, DONA AUGUSTINE, JAVED HAIDER, GOPIKA ANIL, ABHIRAM SUNISH, BIJU P.PAUL AND SHIBU B.S

RESPONDENTS/RESPONDENTS:::

1. UNION OF INDIA, REPRESENTED BY SECRETARY, MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, NEWDELHI., , PIN - 110001
2. NATIONAL HIGHWAYS AUTHORITY OF INDIA - NHAI, NATIONAL HIGHWAY AUTHORITY OF INDIA, G-586, SECTOR-10, DWARAKA, NEW DELHI REPRESENTED BY ITS CHAIRMAN, PIN - 110075
3. THE PROJECT DIRECTOR, NATIONAL HIGHWAY AUTHORITY OF INDIA, TC-29/1539/1, RAJASREE KAIRALI, PERUMTHANNI, VALLAKKADAVU P.O, THIRUVANANTHAPURAM., PIN - 695008
4. THE DISTRICT COLLECTOR, ALAPPUZHA, FIRST FLOOR, COLLECTORATE, ALAPPUZHA, KERALA, PIN - 688001
5. SPECIAL DEPUTY COLLECTOR AND COMPETENT AUTHORITY, LAND ACQUISITION, NATIONAL HIGHWAY AUTHORITY OF INDIA, ALAPPUZHA, PIN - 688001
6. STATE OF KERALA, REPRESENTED BY SECRETARY, PUBLIC WORKS DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM., , PIN - 695001

CENTRAL GOVERNMENT COUNSEL FOR R1 TO R3 AND R5

SRI.VISHNU PRADEEP,CGC FOR R1 TO R3

SENIOR GOVERNMENT PLEADER FOR R4 AND R6

This Writ Appeal again coming on for orders on 08/04/2025 upon perusing the appeal memorandum and this court's order dated 03/04/2025,the court on the same day passed the following:

A. MUHAMED MUSTAQUE & P. KRISHNA KUMAR , JJ.

W.A. No.1784 of 2023

and

**W.P. (C) Nos.28555 of 2021,
789, 22779 & 25045 of 2022**

Dated this the 8th day of April, 2025

ORDER

A.Muhamed Mustaque, J.

Considering the sheer volume of arbitration references pending before the District Collector totaling around 20213, we are certain that the District Collector, who discharges other functions, will not be in a position to attend each of these cases. We also note the submission made by the learned counsels that a substantial number of cases have been disposed of by the District Collector without giving parties an opportunity to adduce evidence, etc. We are aware of the limited scope of challenging these awards under Section 34 of the Arbitration and Conciliation Act, 1996. The intention of the lawmaker is to provide an opportunity for the landowners to raise their grievances and redress their grievances in a judicial manner. By appointing the District Collector as an Arbitrator,

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we are sure that the District Collector will not be in a position to give a proper audience and ensure adherence to the principles of natural justice while disposing those references.

2. There is a serious challenge raised in regard to the appointment of the District Collector as Arbitrator in the light of the Arbitration and Conciliation Act and clause 'e' in paragraph 169 of the Judgment of the Apex Court in **Central Organization for Railway Electrification v. ECI SPIC SMO MCML (JV) A Joint Venture Company [2024 SCC Online SC 3219]**.

3. We consider that if the proceedings before the District Collector are not stayed, grave injustice will be caused to the landowners, who will be deprived of raising their genuine grievances in regard to valuation and compensation in such matters, which have been referred for arbitration invoking the National Highway Act, 1956. In the interest of justice, we are of the view that the proceedings now pending before the District Collector have to be kept on hold till a further decision is taken in this matter. Therefore, we direct that all

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the District Collectors of the State who have been appointed as an Arbitrator invoking the National Highway Act shall not dispose of the pending reference until further orders are passed by this Court. We direct the Chief Secretary of the State of Kerala to communicate this Order to all the District Collectors in the State.

4. In the meanwhile, we also direct the Union Government to explore the possibility of any other alternative, if possible. In the State of Kerala, the Kerala High Court had established the Kerala High Court Arbitration Centre, and there is a provision for reserved arbitration to adjudicate disputes in which the State or Central Government is a party, and in the reserved arbitration, there is a complete waiver of the arbitration fee except for paying a nominal administrative fee. Those Arbitrators are drawn from the State Judicial Service in the rank of senior civil judge and will be acting as deputy directors of the Kerala Arbitration Centre. We also direct the Central Government to consider the possibility of referring the arbitration to the Kerala High Court Arbitration Centre.

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5. However, we make it clear that if any of the litigants insist that the District Collector shall act as Arbitrator and conclude the proceedings; they are free to take up the matter before the District Collector and proceed for the conclusion of the same.

Post on 21.05.2025.

Sd/-

**A. MUHAMED MUSTAQUE,
JUDGE**



Sd/-

**P. KRISHNA KUMAR,
JUDGE**

PR