

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

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THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN THURSDAY, THE $22^{\rm ND}$ DAY OF FEBRUARY 2024 / 3RD PHALGUNA, 1945 LA.APP. NO. 15 OF 2024

AGAINST THE JUDGMENT DATED 18.11.2022 IN LAR 43/2019 OF LAND ACQUISITION REHABILITATION & RESETTLEMENT AUTHORITY, KOTTAYAM APPELLANTS/RESPONDENTS 1 & 2:

- 1 STATE OF KERALA
 REPRESENTED BY DISTRICT COLLECTOR KOTTAYAM, PIN 686002
- THE SPECIAL TAHSILDAR
 LAND ACQUISITION, RAILWAY KOTTAYAM, PIN 686001

BY SENIOR GOVERNMENT PLEADER SRI.T.K.SHAJAHAN

RESPONDENTS/CLAIMANT & 3RD RESPONDENT:

- 1 KOOL FOAM PVT. LTD.
 A COMPANY REGISTERED UNDER THE INDIAN COMPANIES ACT, 1956
 REPRESENTED BY ITS MANAGING DIRECTOR ALEXANDER SEBASTIAN,
 S/O P.C SEBASTIAN, RESIDING AT PALLIVATHUKKAL HOUSE,
 MUTTAMBALAM VILLAGE, COLLECTORATE P.O KOTTAYAM, PIN 686002
- 2 THE DEPUTY CHIEF ENGINEER (CONSTRUCTION II), SOUTHERN RAILWAY ERNAKULAM, PIN 682016

BY ADVS.

SRI.MATHEW JOHN - FOR R1

ABY J AUGUSTINE(K/000302/2018) - FOR R1

ZAKHIER HUZZAIN(K/122/1986) - FOR R1

DSGI - FOR R2

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 22.02.2024, ALONG WITH LA.App..16/2024, 17/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



LAA Nos.15, 16 & 17 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

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AGAINST THE JUDGMENT DATED 18.11.2022 IN LAR 34/2020 OF LAND ACQUISITION REHABILITATION & RESETTLEMENT AUTHORITY, KOTTAYAM APPELLANTS/RESPONDENTS 1&2:

- 1 STATE OF KERALA
 REPRESENTED BY THE DISTRICT COLLECTOR , KOTTAYAM, PIN 686002
- 2 THE SPECIAL TAHSILDAR LAND ACQUISITION , RAILWAY , KOTTAYAM, PIN 686001

BY SENIOR GOVERNMENT PLEADER SRI.T.K.SHAJAHAN

RESPONDENTS/CLAIMANT & 3RD RESPONDENT:

- VIJAYAPURAM DIOCESE

 REPRESENTED BY REV.FR.AJI, CHERUKAKRAMCHERIYIL , KOTTAYAM,

 PIN 686001
- THE DEPUTY CHIEF ENGINEER
 (CONSTRUCTION II), SOUTHERN RAILWAY, ERNAKULAM, PIN 682016

BY ADVS.

JAMES KURIAN

MATHEW JOHN - FOR R1

ZAKHIER HUZZAIN(K/122/1986) - FOR R1

DSGI - FOR R2

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 22.02.2024, ALONG WITH LA.App..15/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



LAA Nos.15, 16 & 17 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

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AGAINST THE JUDGMENT DATED 18.11.2022 IN LAR 36/2019 OF LAND ACQUISITION REHABILITATION & RESETTLEMENT AUTHORITY, KOTTAYAM APPELLANTS/1ST RESPONDENT & 2ND RESPONDENT:

- 1 STATE OF KERALA REPRESENTED BY THE DISTRICT COLLECTOR , KOTTAYAM COLLECTORATE , KOTTAYAM, PIN 686002
- 2 THE SPECIAL TAHSILDAR LAND ACQUISITION , RAILWAYS , KOTTAYAM, PIN 686001

BY SENIOR GOVERNMENT PLEADER SRI.T.K.SHAJAHAN

RESPONDENTS/CLAIMANT & 3RD RESPONDENT:

- 1 KOOL FOAM PVT.LTD. A COMPANY REGISTERED UNDER THE INDIAN COMPANIES ACT 1956
 REP. BY MANAGING DIRECTOR ALEXANDER SEBASTIAN S/O P.C SEBASTIAN , PALLIVATHUKKAL HOUSE , MUTTAMBALAM VILLAGE , COLLECTORATE P.O ,KOTTAYAM, PIN 686002
- THE DEPUTY CHIEF ENGINEER (CONSTRUCTION II) , SOUTHERN RAILWAY ERNAKULAM, PIN 682016

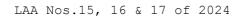
BY ADVS.

SRI.MATHEW JOHN - FOR R1

ABY J AUGUSTINE(K/000302/2018) - FOR R1

DSGI - FOR R2

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 22.02.2024, ALONG WITH LA.App..15/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:





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CM Appl.No.1 of 2024 in LAA No.15 of 2024; CM Appl.No.1 of 2024 in LAA No.16 of 2024; & CM Appl.No.1 of 2024 in LAA No.17 of 2024

AND

LAA Nos.15, 16 & 17 of 2024

JUDGMENT

A. MUHAMED MUSTAQUE, J.

These appeals are filed by the State under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (hereafter referred to as, "the Act") with applications to condone the delay of more than 120 days in filing the appeals. We are not referring to the delay involved in each case as it varies from case to case. A preliminary objection has been raised by the learned counsel for the respondents in regard to the maintainability of the



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appeals as they were filed beyond the time permitted under Section 74 of the Act. The appeals are preferred against the award of the authority under Section 69 of the Act.

- Proviso to Section 74(1) of the Act is clear as to the 2. time, within which an appeal can maximum be entertained by the High Court. Section 74(1) of the Act states that an appeal has to be filed within 60 days from the date of the award. Proviso states that the High Court may entertain the appeal if there is sufficient cause is shown beyond 60 days, provided, the appeal is filed within a further period of 60 days. That means, the maximum period, within which the appeal can be entertained by the High Court, is 120 days. Any appeal filed beyond 120 days from the date of award cannot be entertained by the High Court as the High Court has no power to condone the delay beyond 60 days after the expiry of 60 days reckoned from the date of award.
- 3. The Karnataka High Court, in a detailed order in RP No.328 of 2021 in MFA No.3806 of 2019, considered the impact of proviso and found that beyond 120 days, no



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appeal is entertainable by the High Court and there is no power to condone delay.

In the light of the above, the applications to condone the delay in filing these land acquisition appeals are dismissed. Consequently, the land acquisition appeals are also dismissed.

SD/A. MUHAMED MUSTAQUE JUDGE

SD/-SHOBA ANNAMMA EAPEN JUDGE

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