



GOVERNMENT OF KERALA
Abstract

Local Self Government Department- Vyttila Mobility Hub Project- Judgment of the Hon'ble High Court of Kerala dated 04.07.2018 in DBA 18/2012 & WP(C) 25949/2014 - Sanction to transfer compensation payable to Cochin Devaswom Board - Accorded - Orders issued.

LOCAL SELF GOVERNMENT (DB) DEPARTMENT

G.O.(Rt)No.2701/2019/LSGD Thiruvananthapuram, Dated 29.11.2019

- Read:-
- 1) G.O (Rt) No. 1600/2012/LSGD dated 13/06/2012
 - 2) G.O.(Rt)No. 3542/ 2012/LSGD dated 20-12-20 12
 - 3) Judgment of the Hon'ble High Court in DBA No.18/2012 dated 25.11.2013
 - 4) G.O.(Rt).No. 1211/2014/LSGD dated, 19/5/2014
 - 5) Judgment of the Hon'ble High Court dated 04/07/2018 in DBA No. 18/2012 & WP(C)No. 5949/2014
 - 6 Letter No.VMHS/06/02/10 dated 10.08.2019 &17.09.2019 of the Managing Director, VMHS.

ORDER

Cochin Devaswom Board filed a case DBA No.18/12 before the Hon'ble High Court in connection with the acquisition of portion of land from the compound of the Vyttila Siva Subrahmania Temple comprised in Re Survey. No. 731/3 of Poonithura Village which was taken over for the construction and use of Vyttila Mobility Hub Society.

2. As per Government order read as 1st paper above, sanction was accorded to purchase 0.0603 hectares (14.90 cents) of land comprised in Re Survey No.731/3 of Poonithura Village, Kaniyanoor taluk at the value fixed by District Collector, Ernakulam through negotiation with Cochin Devaswom Board. The District Collector after negotiation fixed the value at Rs.1crore for the total land.
3. The Honourable High Court as per the order dated 08.08.2012 in DBA No.18/12 & DBP No. 76/11, directed the Ombudsman for Travancore and Cochin Devaswom Board to hear both parties to arrive at a more reasonable and just compensation for the land in dispute. Ombudsman for Travancore and Cochin Devaswom Board heard both the parties to reach a final settlement through negotiation. During negotiation, the Society agreed to pay an additional amount of Rs. 50 lakh besides the amount fixed by the District Collector and making the total compensation Rs.1,50,000,00/- ie Rs.1.5 Crore. The Ombudsman, after hearing passed an order recommending the compensation to be paid at Rs.2 Crore.
4. An objection was filed before the Hon'ble High Court on behalf of the Vyttila Mobility Hub Society against the order of Ombudsman requesting to finalize the compensation at Rs. 1.5 crore. The Hon'ble High Court as per the Order dated 21.11.2012 in DBP No. 76/2011 and DBA No. 18/2012, directed the Government to release the agreed amount of Rs. 1.5 crore immediately to Cochin Devaswom Board within one month. Moreover, it was also ordered that the total compensation can be settled after hearing the parties.
5. As per the Government Order read as 2nd paper above Government accorded sanction to transfer Rs.1.5 Crore to Cochin Devaswom Board so as to comply with the Order of the High Court and the said amount was handed over to the Cochin Devaswom Board on 29.12.12.
6. Later as per the direction of the Hon'ble High Court on 30.01.2013, a joint survey was completed and it was found the total extent of land is 16.035 cents instead of 14.9 cents. On 12.09.13, VMHS filed a petition seeking permission to deposit the proportionate additional value of the land found to be excess and for a direction to Cochin Devaswom Board authorities that, on such

payment the ownership of land be transferred to VMHS.

7. Initially the relief sought by the Cochin Devaswom Board was to direct the Vyttila Mobility Hub Society to pay the compensation of 19 cents of Devaswom land in Sy No. 731/3 of Poonithara Village acquired for the purpose of Vyttila Bus Terminal. The Board filed a claim statement on 11.09.2013 which sought compensation for a further extent of 51 cents of Devaswom land illegally required for the Vyttila Mobility Hub Society apart from the 19 cents already involved.

8. As per the paper read as third paper above, the Honourable High Court had appointed a committee consisting of the Chief Secretary, the Principal Secretary to Government (Devaswom), the Principal Secretary to Government (Transport), the Law Secretary, the Principal Secretary to Government (Finance) and the Principal Secretary to Government, (LSGD) to go into the various contentions raised by the Cochin Devaswom Board, Vyttila Mobility Hub, other Departments if any concerned and the Temple Advisory Committee and to take appropriate decision within a period of two months on the actual extent of the land taken over from the Cochin Devaswom Board and the amount of compensation to be paid to them. It was also decided to give opportunity to all parties to file statements and to produce documents in the matter.

9. The committee held detailed discussion with all concerned and after the verification of the documents submitted by the affected parties, the committee arrived at the following conclusions which was issued vide Government Order read as fourth paper above.

1. There is preponderance of recordial evidence to show that the land in Sy. No. 731/6 is puramboke land. In fact, the village office Vyttila functioned from this land till it was shifted to another location, recently.

2. As far as the land ownership records are concerned, Revenue Department is authorised to maintain the same. If any other agency (in this case CDB) produces contradictory records that record has to be seen in the context of Revenue records. Since there is preponderance of documentary evidence to show that the said land is, Sy. No. 763/6 is

puramboku land, the same is to be accepted.

3. Regarding the extent of land of CDB transferred to VMHS (in Survey No. 731/3 of Poonithura Village), the same is arrived at based on the field verification and hence it may be accepted VMHS may pay the balance amount payable to the CDB at the rate agreed to by VMHS before the Ombudsman.

10. Subsequently, the Board has filed the writ petition WP(C)No. 25949/2014 challenging the Government Order read as fourth paper above. In compliance of the Order of Hon'ble High Court of Kerala dated 20.10.2015, VMHS released Rs.11,44,278/- as pro-rata difference of land value to Cochin Devaswom Board by way of DD No. 68009 dated 11.11.2015 drawn on Union Bank of India, Ernakulam Branch.

11. The Hon'ble High Court as per the judgment read as fifth paper above, observed that the Board is entitled to get compensation only for 16.035 cents of land which was taken over from it for the purpose of Vyttila Mobility Hub and hence directed the Government to pay the balance amount of Rs.50,00,000/- (Rupees fifty lakh only) as compensation to the Board for the land having an extent of 14.97 cents taken over from Cochin Devaswom Board's possession. It has also been ordered that the amount of compensation payable to the Board for the balance extent of 1.065 cents of land taken over from its possession shall be computed at the same rate as in the case of 14.970 cents of land and the same shall be paid to the Board within a period of three months from the date of the judgment.

12. Government have examined the matter in detail and are pleased to accord sanction to transfer the amount payable to the Cochin Devaswom Board so as to comply with the judgment of Hon'ble High Court of Kerala in DBA 18/2012 & WP(C) 25949/2014. As an amount of Rs.11,44,278/- has already been released as pro-rata difference of land value, the Managing Director, Vyttila Mobility Hub Society will take further necessary action to transfer the balance amount of Rs.52,75,568/- (Rupees Fifty Two Lakh Seventy Five Thousand Five Hundred and Sixty Eight only) to Cochin Devaswom Board forthwith from the own fund of Vyttila Mobility Hub Society.

13. Thus the judgment of Hon'ble High Court in DBA 18/2012 & WP(C) 25949/2014 is complied herewith.

(By order of the Governor)
PATSY STEPHEN
JOINT SECRETARY

To

Advocate General of Kerala, O/o Advocate General, Kochi-682031 (with covering letter)

The Managing Director, Vytilla Mobility Hub Society, Kochi

Secretary, Cochin Devaswom Board, Thrissur

The Principal Accountant General (A&E /Audit), Thiruvananthapuram.

The Accountant General (LBA&A) Thiruvananthapuram.

Finance Department (vide 1323053/DEV-3/158/19-FIN dated 19.10.2019)

The Executive Director, Information Kerala Mission, Thiruvananthapuram.

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Section Officer