

(2012) 03 KL CK 0201

High Court Of Kerala

Case No: LA. App. No. 1021 of 2005 (A)

Pothandy Nanu, Rep. by Power
of Attorney Holder P.K. Usha

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision: March 14, 2012

Hon'ble Judges: Pius C. Kuriakose, J; A.V. Ramakrishna Pillai, J

Bench: Division Bench

Advocate: R. Surendran and Smt. P. Gopika, for the Appellant; G.S. Reghunath, R, R2 and Sri. C.R. Syamkumar, Sr. Government Pleader R, R1, for the Respondent

Judgement

Pius C. Kuriakose, J.

The claimant represented by his power of attorney holder one Smt. P.K. Usha is the appellant. Under challenge in this appeal is the award of the Reference Court by which the Reference Court confirmed the award passed by the Land Acquisition Officer on the reason that Smt. P.K. Usha the person who represented the claimant in the reference case had not produced the power of attorney executed in her favour by the appellant. We have heard the submissions of Sri. R. Surendran, the learned counsel for the appellant, Sri. C.R. Syamkumar, the learned Senior Government Pleader and the learned Standing Counsel for the Requisitioning Authority KINFRA.

2. Sri. Surendran submitted that the original power of attorney executed by the claimant/appellant in favor of Smt. Usha was produced before the Land Acquisition Officer and the Land Acquisition Officer passed the award virtually in favour of the power of attorney holder. The compensation money was paid to the power of attorney holder. The court also recognized the above power of attorney by issuing notice to Smt.Usha who is described in the court notice as the power of attorney holder of the appellant. As directed by us Sri.Surendran has placed before us the photostat copy of the power of attorney on the basis of which the award was passed by the Land Acquisition Officer. We are convinced on a perusal of the above power

of attorney that Smt.Usha the power of attorney holder (who has filed this appeal on behalf of the appellant Sri.Pothandy Nanu) has been duly authorised to represent the appellant Sri.Pothandy Nanu before the Reference Court and also before this Court. The reasoning of the learned Subordinate Judge for refusing to adjudicate the reference is not sound. We set aside the award and remit LAR.77/01 to the Additional Subordinate Judge"s Court, Thalassery for a fresh decision. The learned Subordinate Judge is directed to proceed with the enquiry of the Reference Case accepting Smt. P.K. Usha to be duly constituted power of attorney holder for Sri. Pothandy Nanu, the appellant. Smt. Usha should be allowed to adduce evidence in support of the claims of Sri. Pothandy Nanu and the reference should be answered on the basis of the entire evidence which comes on record and the evidence adduced on behalf of the claimant, the Government and the Requisitioning Authority. Parties will enter appearance before the Reference Court on 04/04/12. The registry is directed to refund the full court fee paid on the appeal memorandum to Sri.R.Surendran, the learned counsel for the appellant.