

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

CO.No. 114 of 2008 ()

AGAINST THE JUDGMENT IN LAR 250/2003 of SUB COURT, QUILANDY DATED
13-01-2006

PETITIONER/CLAIMANT::

VITHUKALATHIL AHAMMED
S/O.ABDHURAHMAN HAJI, AGED 67 YEARS
POOVANKANDIYIL HOUSE, POONoor DESOM, UNNIKULAM VILLAGE
KOZHIKODE DISTRICT.

BY ADVS.SRI.P.R.SREEJITH
SRI.K.B.SAJEESH

RESPONDENTS/RESPONDENTS::

1.STATE OF KERALA
REP. BY DISTRICT COLLECTOR, KOZHIKODE.

2. THE MANAGING DIRECTOR, KSIDC,
REPRESENTED BY ITS ASSISTANT MANAGER KSIDC
KESTON ROAD, KOWDIAR, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.K.K.SAIDALAVI
SRI.JOBY CYRIAC

THIS CROSS OBJECTION/CROSS APPEAL HAVING BEEN FINALLY HEARD
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

**Cross Objection No.114 of 2008 in
L.A.A.No.530 OF 2006**

Dated this the 4th day of June, 2015

JUDGMENT

Ramachandran Nair, J.

The cross objector herein is the claimant in L.A.R.No.250/2003 of the Subordinate Judge's Court, Koyilandi.

2. At the outset it is seen that the cross objection has been filed in L.A.A.No.530/2006, which is an appeal filed by the requisitioning authority. The appeal stands dismissed by judgment dated 24.07.2009.

3. We are concerned with the claim for enhancement of land value @ Rs. 14,000/- per cent more and additional value for building (Rs.90,340/-). It is seen from the records and the judgment of the reference court that the property was acquired for widening and strengthening of existing PWD road from Vattoli junction to Kinalur estate. The notification under Section 4(1) was published on

12.04.1999. In this case, the total extent involved is only 0.692 cents.

4. The land value fixed by the land acquisition officer is @ Rs.3034/- per cent which stands enhanced by the reference court to Rs.6,000/- per cent.

5. Heard the learned counsel on both sides.

6. The learned counsel for the cross objector submits that the cross objector had relied upon Ext.A2 for seeking enhancement of land value. It is submitted that Ext.A2 was not properly considered by the reference court.

7. The reference court going by the reasoning adopted in paragraph 10 did not accept Ext.A2 in the light of the fact that assignor and assignee in Ext.A2 are relatives and the said document was executed anticipating acquisition proceedings. It was also admitted by AW1 that the remaining property belonging to the assignor of Ext.A2 is still with the assignor. In the light of the above scenario, we do not find it safe to adopt Ext.A2.

8. It is brought to our notice that in L.A.A.No.1449/2005, wherein also the property was acquired for the same purpose, this

Court has refixed the land value for dry lands at Rs.7,500/- per cent. We have gone through the said judgment and we also are of the view that for fixing the land value in this case, the said value can be adopted.

9. As far as the value of structures is concerned, the claimant had only produced certain photographs of the building and even though commissioner was taken out, since the building was already demolished, no evidence could be brought in.

10. Regarding the land value, we refix it at the rate of Rs.7,500/- per cent and for the building we allow 30% over the value already granted by the land acquisition officer as per the award and subject to the claim raised by the cross objector in this cross objection namely at Rs.90,340/-.

Accordingly, the cross objection is allowed. The claimant will also be entitled to statutory benefits as granted by the reference court. There will be no order as to costs in this appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

sv.

K.P.JYOTHINDRANATH, JUDGE