

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

CO.No. 79 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN LA.App. 659/2007 of HIGH COURT OF KERALA
DATED 30.06.2009

CROSS OBJECTOR/RESPONDENT:

SMT.SAROJINI AMMA
W/O.THAAZHATHU NARAYANAN, MUTHUVARA, PUZHAKKAL
THRISSUR.

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENTS/APPELLANTS:

1. THE SPECIAL TAHSILDAR, L.A.(G), THRISSUR
THRISSUR.
2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, THRISSUR.
3. THE DISTRICT COLLECTOR, THRISSUR.

BY ADV. GOVERNMENT PLEADER SRI. R. PADMARAJ (SR)

THIS CROSS OBJECTION HAVING BEEN FINALLY HEARD ON 23-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

kp/-

P.N.RAVINDRAN & ANU SIVARAMAN, JJ.

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C.O.No.79 of 2015

in

L.A.A. No.659 of 2007

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Dated this the 23rd day of July, 2015

ORDER

P.N.Ravindran, J.

The cross objector is the claimant in L.A.R.No.78 of 2004 on the file of the Court of the Subordinate Judge of Thrissur. A parcel of land, 20.64 Ares (corresponding to 51 cents) in extent, belonging to the cross objector and situate in Sy.No.251/1 of Ayanthole Village, Thrissur Taluk, Thrissur District was acquired by the Industries department under the Land Acquisition Act, 1894 (hereinafter referred to as 'Act' for short). The notification under section 4(1) of the Act was last published in the Deepika daily dated 31.12.1999. By award passed on 15.12.2001, the Land Acquisition Officer awarded land value at the rate of ₹3,410 per Are. Possession of the land acquired was thereafter taken on 15.4.2004. The cross objector-claimant received the compensation awarded by the Land Acquisition Officer under protest and sought a reference of the dispute regarding compensation to the competent civil court. A reference accordingly made to the Court of the Subordinate Judge of Thrissur where it was taken on file and numbered as L.A.R.No.78 of 2004.

2. In the reference court, the cross objector-claimant filed a claim statement claiming land value at the rate of ₹80,000/- per cent. The claimant examined herself as AW1 and produced and marked Exts.A1 to A4. It was relying on the aforesaid documents that she claimed land value at the rate of ₹80,000/- per cent. On the side of the respondents Exts.R1 and R2 were produced and marked. The reference court considered the rival contentions and held that the documents produced on either side cannot be relied on. However, considering the fact that there is an escalation in the market value of land in the locality and the potential use of the land, the reference court re-fixed the land value at ₹2,280/-(corresponding to ₹5633.88 per Are). The reference court also held that the claimant will be entitled to all statutory benefits.

3. Challenging the decree and judgment passed by the reference court, the State of Kerala filed L.A.A.No.659 of 2007. Upon receipt of notice the cross objector-claimant entered appearance and filed the instant memorandum of cross objections seeking further enhancement of the land value. L.A.A.No.659 of 2007 filed by the State of Kerala from the decree and judgment passed by the reference court was heard and dismissed by judgment delivered on 30.06.2009 relying on the judgment in L.A.A.No.9 of 2007 which arose from L.A.R.Nos. 29, 30 and 32 of 2004 on the file of the Court of the II Additional Subordinate Judge, Thrissur. In that case, the notification

under section 4(1) of the Act was published on 29.7.2000. The Land Acquisition Officer had in that case awarded land value at the rate of ₹3,710/- per Are. The reference court enhanced it to ₹7,042.35 per Are. L.A.A.No.9 of 2007 filed by the State of Kerala challenging the decree and judgment of the reference court was dismissed by this court by judgment dated 30.06.2009 holding that the land value awarded by the reference court is just and reasonable.

4. The main ground raised in the memorandum of cross objection is that the reference court erred in not placing reliance on Exts. A1 to A3 which were executed and registered prior to the date of the notification issued under section 4(1) of the Act and that the reasons stated by the reference court for not placing reliance on the aforesaid documents are not tenable. It is contended that the land value awarded by the reference court is meagre and inadequate.

5. We heard Sri. P.V.Chandramohan, learned counsel for the cross objector and Sri. R.Padmaraj, learned Senior Government Pleader appearing for the respondents. We have also gone through the pleadings and the materials on record including the judges papers in L.A.A.No.9 of 2007. During the course of arguments, it was brought to our notice that a Division Bench of this court has in L.A.A.No.515 of 2006 and connected cases which arose pursuant to the notification dated 4.10.1999 issued under section 4(1) of the act, which acquisition was for the very same purpose, awarded land value at the rate of

₹8050/- per cent (corresponding to ₹19891.55 per Are). The Land Acquisition Officer had in those cases awarded land value at the rate of ₹1,380/- per cent corresponding to ₹3,410/- per Are. The reference court re-fixed the land value at ₹2,280/- per cent (corresponding to ₹5633.88 per Are). On appeal, as stated earlier, the Division Bench of this court enhanced it to ₹8050/- per cent (corresponding to ₹19891.55 per Are). The State of Kerala thereupon filed R.P.No.878 of 2013 seeking a review of judgment in L.A.A.No.515 of 2006. However, in the other connected appeals, ten in number, only applications for rectification of mistakes were filed. R.P.No.878 of 2013 was filed with a delay of 694 days. The delay petition was heard and dismissed by order passed on 11.06.2014. Consequently, R.P.No.878 of 2013 was also dismissed. The Division Bench also took note of the fact that in the connected appeals, applications for review have not been filed, but only applications for rectification, that there is no scope for rectification for the reason that there is no apparent mistake and therefore the review petition cannot be entertained as it will lead to conflicting decisions in eleven cases. Learned counsel on both sides also brought to our notice that pursuant to the judgment of the Division Bench in L.A.A.515 of 2006, the judgment delivered by a Division Bench in L.A.A.No.1594 of 2008 which arose from the very same acquisition was reviewed and land value at the rate of ₹8050/- per cent (corresponding to ₹19891.55 per Are) was awarded to the

claimant therein. The lands involved in all these are situate adjacent to each other. They were acquired for the very same purpose. The cross objector has in the instant cross objection sought enhancement of the land value by ₹5,00,000/-. In such circumstances, we are of the opinion that land value as awarded by this court in L.A.A.No.515 of 2006, viz; at the rate of ₹8050/- per cent, (corresponding to ₹19891.55 per Are) can justifiably be awarded to the cross objector.

We accordingly allow the memorandum of cross objections and award to the cross objector-claimant, land value at the rate of ₹8050/- per cent (corresponding to ₹19891.55 per Are). The decree and judgment of the reference court shall stand modified accordingly. Needless to say, the cross objector-claimant will be entitled to all statutory benefits as also proportionate costs in the appeal.

**P.N.RAVINDRAN
JUDGE**

**ANU SIVARAMAN
JUDGE**

kp/-