

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

CO.No. 95 of 2015 () IN LA.App.5/2007

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AGAINST THE JUDGMENT IN LAR 25/2004 of II ADDL. SUB COURT, THRISSUR**

CROSS OBJECTOR/RESPONDENT IN THE LAA/APPELLANT IN THE LAR:

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THOMAS, S/O.PORINCHU,
PANANGADAN, PUZHAKKAL,
THRISUUR DISTRICT.**

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENTS/APPELLANTS IN THE LAA/RESPONDENTS IN THE LAR::

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

R1-R3 BY SR. GOVERNMENT PLEADER SRI.R.PADMARAJ.

**THIS CROSS OBJECTION/CROSS APPEAL HAVING BEEN FINALLY HEARD ON
03-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VPV

P.N.RAVINDRAN & ANU SIVARAMAN, JJ.
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Cross Objection No.95 of 2015
in
L.A.A.No.5 of 2007
=====

Dated this the 3rd day of August, 2015

ORDER

P.N.Ravindran, J.

The cross objector is the claimant in L.A.R.No.25 of 2004 on the file of the Court of the Subordinate Judge of Thrissur. A parcel of land, 0.2843 Ares in extent, situate in Sy.No.236/1 of Ayyanthole Village, Thrissur Taluk, Thrissur District, belonging to the cross objector was acquired by the Industries Department under the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act' for short). The notification under section 4(1) of the Act was last published on 4.10.1999. By award passed on 27.3.2002, the Land Acquisition Officer awarded land value at the rate of Rs.3,410/- per Are. Possession of the land acquired was thereafter taken on 22.05.2002. The cross objector 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 was accordingly made to the Court of the Subordinate Judge of Thrissur where it was taken on file and numbered as L.A.R.No.25 of 2004.

2. In the reference court, the cross objector filed a claim

statement claiming land value at the rate of Rs.80,000/- per cent. He examined himself as AW1 and produced and marked Exts.A1 to A4 in support of his claim for award of land value at the rate of Rs.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 Rs.2,280/- per cent, (corresponding to Rs.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 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 of 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 Rs.3,710/- per Are. The reference court enhanced it to Rs.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 objections 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.Chandra Mohan, learned counsel appearing 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 and which

acquisition was also for the very same purpose, awarded land value at the rate of Rs.8,050/- per cent (corresponding to Rs.19,891.55 per Are). The Land Acquisition Officer had in those cases awarded land value at the rate of Rs.1,380/- per cent (corresponding to Rs.3,410/- per Are). The reference court re-fixed the land value at Rs.2,280/- per cent (corresponding to Rs.5,633.88 per Are). On appeal, as stated earlier, the Division Bench of this court enhanced it to Rs.8,050/- per cent (corresponding to Rs.19,891.55 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 the 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 Rs.8,050/- per cent (corresponding to Rs.19,891.55 per Are) was awarded to the claimant therein. The lands involved in all these cases are situate adjacent to each other. They were acquired for the very same purpose. 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 Rs.8,050/- per cent, (corresponding to Rs.19,891.55 per Are) can justifiably be awarded to the cross objector.

We accordingly allow the memorandum of cross objections and award to the cross objector land value at the rate of Rs.8,050/- per cent (corresponding to Rs.19,891.55 per Are). The decree and judgment of the reference court shall stand modified accordingly. Needless to say, the cross objector will be entitled to all statutory benefits as also proportionate costs in this appeal.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
ANU SIVARAMAN
JUDGE

/TRUE COPY/

P.A. TO JUDGE