

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

LA.App..No. 670 of 1999 ()

&

CROSS APPEAL

JUDGMENT & DECREE IN LAR 215/1997 OF THE PRINCIPAL SUB COURT,
KOZHIKODE

APPELLANT/RESPONDENT:

STATE OF KERALA

BY ADV.SRI. ALOYSIUS L. THOMAS, GOVERNMENT PLEADER

RESPONDENT/CLAIMANT:

* THOTTIL PEEDIKAYIL MOHAMMED ALI
P.O. ERANHIKKAL (VIS) ELATHUR
POWER OF ATTORNEY HOLDER OF KARUPPASANKANDY AYISHABI,
D/O. IMBICHIMANNU. (DIED AND LEGAL HEIRS IMPLEADED)

ADDL. RESPONDENTS 2 AND 3

- * 2. AAYISSU, D/O. (LATE) AYISHABI,
KURUPPASANKANADY HOUSE, ELATHUR, KOZHIKODE.
3. NAFEESA, D/O. (LATE) AYISHABI
KURUPPASANKANADY HOUSE, ELATHUR, KOZHIKODE.

LEGAL HEIRS OF DECEASED SOLE RESPONDENT ARE IMPLEADED AS
ADDITIONAL RESPONDENTS 2 AND 3 VIDE ORDER DATED 18.8.2015 IN
I.A.NO.981/2015.

ASSISTANT REGISTRAR

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SCL.

**T.R. RAMACHANDRAN NAIR
&
P.V. ASHA, JJ.**

L.A.A. No.670 of 1999
and
Cross Appeal

Dated this the 18th day of February, 2015.

JUDGMENT

T.R.Ramachandran Nair,J.

This appeal is filed from the judgment and decree in L.A.R. No.215/97 passed by the Sub Court, Kozhikode. The Reference Court by a common judgment in L.A.R.Nos. 28, 29, 214 and 215 of 1997 allowed the enhancement of compensation.

2. The property was acquired for the purpose of constructing Calicut bye pass road as per notification dated 15.1.1993 under Section 4(1) of the Land Acquisition Act. The acquired property was a garden land. The Reference Court awarded only Rs.10,000/- per cent as land value. The State has filed the appeal and the appellant filed cross objection in the appeal.

3. It is submitted by the learned counsel for the appellant that in L.A.A No.598 of 1999, which also arises from the same common judgment, this Court by judgment dated 9.7.2010 in Cross Objection No.101 of 2004 was re-fixed the land value at Rs.18,000/- per cent.

4. The notification therein under Section 4(1) was dated 15.1.1993. The same value was adopted by the Reference Court therein. The Division Bench relied upon the judgment in L.A.A.No.1683 of 2002, which also relates to the acquisition of identical land in the same village for the same purpose.

Therefore, we are of the view that the claimant is entitled for an enhancement of land value at the same rate of Rs.18,000/- per cent. Accordingly, the cross objection is allowed. In R.P.No.386 of 2012 , while condoning the delay in C.M.Application 374 of 2012, the Division Bench had directed that in case the review petition allowed, the enhanced compensation which may be awarded to the petitioners, will

not carry interest during the period of 2647 days. In the light of the above, the petitioners will not be entitled for the interest under Section 28 for the above period and the statutory benefit are granted subject to the above restriction.

The parties will suffer their costs in the cross objection.

**Sd/-
T.R. RAMACHANDRAN NAIR
JUDGE**

**Sd/-
P.V. ASHA
JUDGE**

Scl.

The judgment dated 18/02/2015 in L.A.A 670/1999 & Cross Appeal is clarified as follows:

"The L.A.A. stands dismissed and the cross appeal is allowed. The Court fee in deficit shall be paid by the cross appellants. The copy of the decree shall be issued only after payment of the balance court fee."

(Vide order dated 05/01/2016 in L.A.A. 670/1999 and Cross Appeal).

**Sd/-
Registrar (Judicial)**

L.A.A.670/1999 & Cross Appeal