

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

LA.App..No. 589 of 2003 ()

AGAINST THE JUDGMENT IN LAR 544/1993 ON THE FILE OF THE SUB COURT,
MAVELIKKARA DATED 15-01-2001

APPELLANT/CLAIMANT:

VALSAN MATHEW, KOTTARATHIL VEEDU, CHINGOLI MURI,
CHEPPAD VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT.

BY ADV. DR.P.S.KRISHNA PILLAI

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA.
2. NATIONAL THERMAL POWER CORPORATION LTD.,
REPRESENTED BY ITS CHIEF GENERAL MANAGER,
KAYAMKULAM.

R1 GOVERNMENT PLEADER SRI. ALOYSIUS THOMAS

R2 BY ADV. SRI.K.ANAND (SR.)

R2 BY ADV. SMT.LATHA KRISHNAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AL/-

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

L.A.A. No.589 of 2003

Dated this the 6th day of January 2015

JUDGMENT

Ramachandran Nair, J.,

The appeal is from the judgment in L.A.R. No. 544/1993 on the file of Sub Court, Mavelikkara. Going by the facts of the case, an extent of 5.90 Ares of land was acquired for the purpose of NTPC, which is the requisitioning authority and the land acquired is treated as wet land by the Land Acquisition Officer. The notification under Section 4(1) was dated 18.10.1989. Out of the total extent, 5.30 Ares formed wet land comprised in survey No. 162/13 and 0.60 Ares covered the road portion in Sy. No. 167/30. The Land Acquisition Officer awarded land value at the rate of Rs. 3050/- per Are for wet land and Rs.1/- was given for the road portion. The claimant claimed enhancement before the trial court and by the impugned judgment the land value for 5.30 Ares of wet land has been enhanced by Rs. 1,830/- making the total market value at the rate of Rs. 4,880/- and nothing has been granted for 0.60 Ares of road portion.

2. Learned counsel for the appellant submitted that the claimant relied upon the judgment in L.A.R. 457/1991 of the same court produced as Ext.A1 in which the property is practically lying adjoining to the acquired property. The acquired property is near the

Nangiarkulangara junction and the property involved in Ext.A1 is also very near to the junction itself. The judgment in that case of the reference court was not fully accepted by stating the reason that the claimants could not adduce evidence before the court to show that the said judgment has become final. It is submitted that the said judgment has become final in an appeal filed by the NTPC as L.A.A. No. 879/2000 which was dismissed on 15.9.2008 by a Division Bench along with a batch of cases.

3. Learned counsel for the appellant therefore submitted that the land value adopted for wet land therein viz., at the rate of Rs.9050/- per Are can be adopted herein also.

4. It is seen that the acquired property herein is 50 metres away from National Highway and 250 metres from the Nangiarkulangara junction. But we notice that the Land Acquisition Officer adopted the land value at the same rate of Rs. 3050/- per Are for it and for the property involved in L.A.R. No. 457/1991. We have gone through the judgment in L.A.R. 457/1991. Two different items of properties were involved; one being dry land and the other wet land. For dry land, the reference court fixed the land value at the rate of Rs. 22,400/- per Are. The discussion with regard to the market value of wet land is clear from paragraph 15 of the said judgment. Therein, the reference court relied upon the judgment in LAR No. 18/1992 which was produced as Ext.A1 in that case. In the said case

the land value was fixed at the rate of Rs. 9050/- per Are. We find from paragraph 15 that the reference court adopted the same value viz., at the rate of Rs. 9050/- per Are for wet land, in Ext.A1.

5. The properties acquired herein are similar to the properties involved in L.A.R. 457/1991, and having more or less same advantages also. We are of the view that, the same land value can be granted in this case also, for the extent of wet land viz., 5.30 Ares of land.

6. Accordingly, we refix the land value for the wet land involved in survey No. 162/13 at the rate of Rs. 9050/- per Are. As far as the land involved in survey No. 162/13 is concerned, it is not discernible as to why the reference court has not granted any amount. Merely because it is a road portion, the claimant cannot be denied due compensation. The learned counsel submitted that being a road portion which is reclaimed land, reasonable amount can be fixed by this Court. It is not a public road at all. Since we have fixed the land value for the wet land at the rate of Rs. 9050/- per Are, we fix the land value at the rate of Rs. 10,000/- per Are for 0.60 ares in Sy. No. 167/30 and the appeal is allowed to that extent.

7. Accordingly, the appeal is allowed and for the 5.30 Ares of land comprised in survey No. 162/13, the land value is fixed at the rate of Rs.9050/- per Are and for 0.60 Ares of land comprised in survey No. 162/13, the land value is fixed at the rate of Rs. 10,000/-

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per Are. The appellant will also be entitled to get all the statutory benefits granted by the trial court. No costs.

Sd/-

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

Sd/-

**P.V.ASHA
(JUDGE)**

AL/-

Survey numbers '167/30' and '162/13' wherever they occur in the judgment dated 6.1.2015 in L.A.A.No.589/2003 being the Survey number of 0.60 Ares of land are corrected and substituted as Survey number '162/30', vide order dated 18.08.2015 in L.A.A.No.589/2003.

Sd/-

Registrar Judicial

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

L.A.A. No.589 of 2003

6.1.2015

JUDGMENT