

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

LA.App..No.1408 of 2003 (B)

AGAINST THE JUDGMENT IN LAR 117/2000 of SUB COURT, PAYYANNUR

APPELLANT/RESPONDENT:

STATE OF KERALA

BY SR. GOVERNMENT PLEADER SRI.R.PADMARAJ

RESPONDENTS/CLAIMANTS:

1. MULLANTAKATH HAMSAKUNHI,
S/O ABBAS HAJI,
P.O. KOOVAPPURAM,
KUNHIMANGALAM,
KANNUR DISTRICT. **[DIED & LEGAL HEIRS IMPLEADED]**
- * ADDL. RESPONDENTS 2 TO 8
2. SMT.M.KUNHABI, AGED 67, RESIDING AT
KUNHIMANGALAM, KOOVAPPURAM P.O., KANNUR DISTRICT.
3. SMT.K.P.KHADEEJA, W/O M.HAMSAKUNJU, AGED 38,
R/A KUNHIMANGALAM, KOOVAPPURAM P.O., KANNUR DISTRICT.
4. K.P.SAFOOLA, D/O M. HAMSAKUNJU, AGED 25,
R/A KUNHIMANGALAM, KOOVAPPURAM P.O.,
KANNUR DISTRICT.
5. K.P.MUHAMMED SAFWAN, S/O LATE M.HAMSAKUNJU,
AGED 24, R/A KUNHIMANGALAM, KOOVAPPURAM P.O.,
KANNUR DISTRICT.
6. K.P.MUHAMMED SUFIYAN, S/O DECEASED HAMSAKUNJU, AGED 19
R/A KUNHIMANGALAM, KOOVAPPURAM P.O.,
KANNUR DISTRICT.
7. K.P.SUFAIDA, D/O LATE HAMSAKUNJU, AGED 17, R/A
KUNHIMANGALAM, KOOVAPPURAM P.O., KANNUR DISTRICT.

8. K.P.MUHAMMED SUHAYIL, S/O LATE HAMSAKUNJU, AGED 13
R/A KUNHIMANGALAM, KOOVAPPURAM P.O., KANNUR DISTRICT.

*[LEGAL HEIRS OF SOLE DECEASED RESPONDENT ARE IMPEADED AS ADDL. R2
TO R8 VIDE ORDER DATED 27-02-15 IN I.A. 713/13]

R2-R5, R7 & 8 BY ADV. SRI.O.RAMACHANDRAN NAMBIAR
R2-R5, R 7 & 8 BY ADV. SRI.GEEN T.MATHEW

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P. N. RAVINDRAN
&
BABU MATHEW P. JOSEPH, JJ.**

L. A. A. No.1408 of 2003

Dated this the 18th day of September, 2015

JUDGMENT

P. N. Ravindran, J.

This appeal arises from the decree and judgment passed by the Court of the Subordinate Judge of Payyanur, on 31-03-2003 in L.A.R. No.117 of 2000. The respondent is the claimant therein. The brief facts of the case are as follows:

2. Three parcels of land situated in R.S.100/1A (0.2347 hectares), in R.S.102/2 (0.0536 hectares) and in R.S.102/3 (0.1134 hectares) belonging to the respondent and situated in Payyannur Village, Thaliparamba Taluk, Kannur District, were acquired by the Payyannur Municipality for the purpose of building a stadium. The notification under section 4(1) of the Land Acquisition Act, 1894, was last published on 23-04-1997. By award passed on 16-12-1999, the Land Acquisition Officer awarded land value at the rate of ₹6,910/- per Are. Dissatisfied with the land value awarded by the Land Acquisition Officer, the land owner received the compensation awarded 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 Payyannur, where it was taken on file and numbered as L.A.R. No.117 of 2000. By the impugned judgment, the reference court enhanced the land value to ₹74,100/- per Are, relying on Ext.A1 sale deed dated 02-07-1996 executed in favour of a co-operative society. Aggrieved by the award passed by the reference court, the State of Kerala has preferred this appeal.

3. It is not in dispute that the very same award was challenged by the requisitioning authority, namely, the Payyannur Municipality in W.P.(C) No.1217 of 2004. The appellant and the respondent herein were parties to the said writ petition. By judgment delivered on 25-03-2004, a learned single Judge of this court allowed the said writ petition, set aside the impugned award passed by the reference court and remanded L.A.R. No.117 of 2000 to the reference court for fresh trial and disposal. It is also not in dispute that thereupon, the reference court passed a revised judgment dated 08-11-2004 refixing the land value at ₹10,000/- per cent. The revised judgment and decree passed by the reference court were subjected to challenge by the State of Kerala in L.A.A. Nos.1488 of 2008 and by the Payyannur Municipality in L.A.A. No.873 of 2007. The respondent herein filed a Memorandum of Cross Objections in L.A.A. No.873 of 2007 as Cross Objection No.34 of 2008. L.A.A. No.873 of 2007 filed by the Payyannur Municipality was dismissed by a Division Bench of this Court by judgment delivered on

28-06-2010. Cross Objection No.34 of 2008 in L.A.A.No.873 of 2007 filed by the respondent claimant was allowed and the land value was revised and refixed at ₹12,750/- per cent by judgment delivered on 14-06-2012. L.A.A.No.1488 of 2008 filed by the State of Kerala was dismissed by judgment delivered on 27-02-2015.

4. It is evident from the facts stated above that the instant appeal has become infructuous. The impugned award which was passed on 31-03-2003 has already been set aside by this court in a writ petition filed by the requisitioning authority. The revised award passed thereafter on 08-11-2004 was subjected to challenge in this court and the appeals were dismissed. In such circumstances, this appeal is closed as infructuous.

Sd/-
P. N. RAVINDRAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

