

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

LA.App..No. 54 of 2004 ()

AGAINST THE JUDGMENT IN LAR 109/1998 of SUB COURT, MAVELIKKARA
DATED 16-10-2002

APPELLANT/2ND RESPONDENT.:

THE CHIEF MANAGER(HR) ,
NATIONAL THERMAL POWER CORPORATION LIMITED
NANGIARKULANGARA, KAYAMKULAM, ALAPPUZHA.

BY ADVS.SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

RESPONDENTS/CLAIMANT AND IST RESPONDENT.:

1. VIJAYAN, NARAYANA VILLA,
MANNASSERIL KIZHAKKETHIL, VALIYAKUZHI MURI, CHEPPAD.

2. STATE OF KERALA, REP. BY
ADDITIONAL GOVERNMENT PLEADER.

R2 BY GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
28-05-2015, ALONG WITH LAA NO.470/04, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

L.A.A.Nos.54 & 470 OF 2004

Dated this the 28th day of May, 2015

JUDGMENT

Ramachandran Nair, J.

These appeals are connected as they are from the judgment and decree in L.A.R.No.109/1998 of the Sub Court, Mavelikkara. The requisitioning authority is the appellant in L.A.A.No.54/2004 and the State has come up in appeal in L.A.A.No.470/2004. The notification under Section 4(1) was published on 12.2.1996 and the extent of the acquired property is 11.30 Ares in Sy.No. 149/24 of Cheppad village.

2. Heard the learned counsel on both sides.

3. The learned Government Pleader submitted that the reference court relied upon Ext.A1 judgment while enhancing the land value and the property is a wet land. It is therefore submitted that the enhancement granted by the reference court by refixing the land value at ₹12,000/- per Are from ₹3,064/- fixed in the award is not justified.

4. Sri.George Varghese, the learned counsel for the claimant

submits that Ext.A1 judgment pertains to acquisition for the year 1990 for the same purpose. There the notification under Section 4(1) was published on 22.1.1990 and there is a time lag of six years as far as the acquisition herein is concerned. Ext.A1 is the judgment in L.A.R.No.355/1991 and 458/1991. This was subjected to appeal before this Court as L.A.A.Nos. 425/2000 & 712/2000. We have gone through the said judgment also. Therein the land value has been fixed as Rs.9,000/- per Are for a portion and for the remaining portion, it was fixed as Rs.18,000/- per Are in L.A.A.No.458/1991.

5. The first question is whether the property is purely a wet land. The learned counsel for the claimant submitted that actually it is a reclaimed land which is clear from the mahazar prepared by the officer concerned at the time of taking over possession. The mahazar shows that there were yielding coconut trees and tress like Anjali, Mango, Cashew nut, teak and other miscellaneous trees. It is also his submission that the time lag between the acquisition of the property covered by Ext.A1 and the property acquired herein being six years, the

method adopted by the reference court cannot be said to be faulty. Even if reasonable increase in price of land is taken @ 5% per year, for the time lag between the acquisitions, it will be clear that the enhancement granted by the reference court herein is reasonable and proper. Apart from the same, the property is not purely wet land, but it is reclaimed land also as is clear from paragraph 9 of the judgment of the reference court wherein relying upon the deposition of AW1, it has been observed that the acquired property is a reclaimed land.

Therefore, no interference is called for and accordingly the appeals are dismissed. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH, JUDGE

SV.