

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, 1936

LA.App..No. 1366 of 2002 ()

AGAINST THE JUDGMENT IN LAR 503/1993 of SUB COURT,
MAVELIKKARA DATED 30-11-2000

APPELLANT(S)/CLAIMANT:

ACHAMMA ABRAHM, PATTAMUKKIL HOUSE,
KANJOOR KOTTAKKAKOM, CHINGOLI. (DIED) **

ADDL.2. PETER ABRAHAM,
AGED 56 YERAR, S/O.P.P.ABRAHAM,
RESIDING AT PATTAMUKKIL VEEDU,
KANJOOR KOTTAKKAKOM, CHINGOLI,
ALAPPUZHA DISTRICT.

ADDL.3. DR.THOMAD ABRAHAM,
S/O.P.P.ABRAHAM,
RESIDING AT PATTAMUKKIL VEEDU,
KANJOOR KOTTAKKAKOM, CHINGOLI,
ALAPPUZHA DISTRICT.

(**legal heirs of deceased sole appellant are impleaded as additional
appellants 2 and 3 vide order dt.3.6.14 in I.A.643/14 in
LAA.1366/2002)

BY ADV. SRI.K.SASIKUMAR

RESPONDENT(S)/RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

2. NATIONAL THERMAL POWER CORPORATION,
KAYAMKULAM, REPRESENTED BY ITS GENERAL MANGER.

R2 BY SMT.LATHA KRISHNAN

R1 BY SENIOR GOVERNMENT PLEADER SRI L.ALOYSIUS THOMAS

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

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

L.A.A No.1366 of 2002

Dated this the 6th day of January, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the appellant claimant aggrieved by the judgment in L.A.R No.503 of 1993 of the Sub Court, Mavelikkara. The judgment of the reference court is common in 8 cases. Herein we are concerned only with L.A.R No.503 of 1993. The bare facts for the disposal of the appeal are the following. The requisitioning authority herein is the National Thermal Power Corporation Ltd. (for short N.T.PC). The Notification under Section 4(1) is dated 30.12.1989. There are two items of properties acquired from the claimant herein and the first one is dry land having an extent of 2.95 Ares in Survey No.241/1 and the remaining item is wet land having an extent of 2.25 Ares in Survey No.241/23. The Land Acquisition Officer fixed the land value at Rs.6,000/- per Are for dry land and Rs.2,200/- per Are for wet land. The reference court treated the entire property as dry land and granted land value @ Rs.9,000/-

per Are. In the appeal, the claimant is claiming @ Rs.20,000/- per Are.

2. Exts.A1 and A2 are the documents relied on before the reference court. Ext.A1 is the certified copy of the judgment in L.A.R Nos.355/91 and 458/91 and Ext.A2 is the certified copy of the judgment in L.A.R No.411/93 of the same Court. From the judgment in L.A.R No.355/91 appeal was filed as L.A.A 425/2000. The requisitioning authority also filed appeal as L.A.A No.712 of 2000. From the judgment in L.A.R No.415/1999 appeal was filed as L.A.A No.686 of 2000 by the N.T.P.C. This Court refixed the land value at Rs.18,000/- per Are for dry land in the appeal and for wet land at Rs.9,000/- per Are.

3. We heard the learned counsel for the appellant, the learned Government Pleader and the learned Standing Counsel for the N.T.P.C. It is informed at the Bar that in connected matters, this Court has accepted the plea to fix the market value by granting enhancement at 150% for dry land. The land value therefore for dry land will be Rs.15,000/- per Are. The same is evident from the judgment in a batch of cases, ie. L.A.A No.879 of 2000 and connected cases, rendered by a Division Bench of this Court on 15.09.2008.

4. Since the acquisition is for the same purpose and the requisitioning authority is also the same, even though it is stated in the judgment that the same may not be treated as a precedent, it can be taken for guidance by this Court. We find that from relied on judgment Ext.A1 in appeals before this Court, this Court had adopted @ Rs.18,000/- per Are for dry land. Therefore, we are only adopting a lesser rate, from it also.

Accordingly, the appeal is allowed and the land value for the acquired land involved in the appeal is fixed at Rs.15,000/- per Are. It is also made clear that the appellant will be entitled for all the statutory benefits as granted by the court below. No costs.

Sd/-
T.R.RAMACHANDRAN NAIR
Judge

Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge