

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. 1367 of 2002 ( )  
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AGAINST THE ORDER/JUDGMENT IN LAR 495/1993 of SUB COURT,  
MAVELIKKARA DATED 30-11-2000

APPELLANT(S) /CLAIMANTS:  
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1. ACHAMMA ABRAHAM  
PATTAMUKKIL HOUSE,  
KANJOOR KOTTAKKAKOM, CHINGOLI.

2. PETER ABRAHAM,  
PATTAMUKKIL HOUSE,  
KANJOOR KOTTAKKAKOM, CHINGOLI.

3. THOMAS ABRAHAM, PATTAMUKKIL HOUSE,  
KANJOOR KOTTAKKAKOM, CHINGOLI.

4. SUSAN MARKS, PATTAMUKKIL HOUSE,  
KANJOOR KOTTAKKAKOM, CHINGOLI.

(THROUGH POWER OF ATTORNEY HOLDER ACHAMMA ABRAHAM  
PATTAMUKKIL HOUSE, KANJOOR KOTTAKKAKOM, CHINGOLI).

BY ADV. SRI.K.SASIKUMAR

RESPONDENT(S) /RESPONDENTS:  
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1. STATE OF KERALA REPRESENTED BY  
THE CHIEF SECRETARY, SECRETARIAT,  
THIRUVANANTHAPURAM.

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

R2 BY ADVOCATE 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.**

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**L.A.A No.1367 of 2002**  
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**Dated this the 6<sup>th</sup> day of January, 2015**

**JUDGMENT**

Ramachandran Nair, J.

The above appeal is from the judgment in L.A.R No.495 of 1993 of the Sub Court, Mavelikkara. The property was acquired for the purpose of the National Thermal Power Corporation (in short 'N.T.P.C'). The notification under Section 4(1) is dated 20.12.1989. The total extent involved is 46.14 Ares of land in Survey 238/5, 27 & 28 of Chingoli Village and the Land Acquisition Officer awarded land value at Rs.2,400/- per Are treating the property as reclaimed land and the reference court has refixed it to Rs.4,800/-. Ext.A2 judgment in L.A.R No.411/1993 was relied upon by the appellants before the court below. Therein, the Land Acquisition Officer initially fixed land value at Rs.2,200/- per Are which was enhanced by the Reference Court to Rs.6,400/- per Are.

2. The learned counsel for the appellants submitted that actually 8 Ares of property is dry land and the remaining extent is reclaimed dry land. Therefore, it will be just and reasonable to

fix land value by treating the property as dry land and reclaimed land.

3. We have gone through the discussions of the evidence. The reference court after considering the claim statement, the oral evidence adduced by the parties and other aspects, did not accept the case that the portion claimed as dry land is fully justified. But with regard to the reclamation made, it is found that the reclamation, being without permission of the authorities concerned, the claimant will not be entitled for treating any portion as dry land and that the entire land acquired is reclaimed dry. As rightly pointed out by the learned counsel for the appellants, the Land Acquisition Officer has treated the entire extent of 46.41 as reclaimed land and has awarded Rs.2,400/- per Are; whereas for wet land what was awarded in such cases is at Rs.2,200/- per Are. By resort to such a method the learned counsel submitted that, if at all this Court is not agreeing with the contention that 8 Ares is dry land - this Court can grant enhanced land value treating the entire extent as reclaimed land. The learned counsel for the requisitioning authority submitted that the view taken by the land acquisition reference court is perfectly justified.

4. Since the property was treated as reclaimed land by the Land Acquisition Officer and in the absence of evidence to show that 8 Ares is dry land, the entire extent can be treated as reclaimed land, and market value can be fixed accordingly. Going by the judgment in L.A.A No.707 of 2000, which is the appeal filed against the judgment in L.A.R No.491 of 1993, the fixation of land value at Rs.6,400/- for wet land is affirmed by this Court. By adopting a reasonable percentage of increase from the said amount, we will be justified in fixing the correct land value. According to us, the land value for the acquired property if fixed at Rs.7,000/- per Are will be reasonable as far as reclaimed land is concerned and by fixing the said amount for the land involved herein, the appeal is allowed. The appellants 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