

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

LA.App..No. 473 of 2004 ()

LAR 54/1997 of III ADDL.SUB COURT, ERNAKULAM

APPELLANT/RESPONDENT. :

STATE OF KERALA.

**BY SENIOR GOVERNMENT PLEADER SRI. R. PADMARAJ
SRI.RAJAN JOSEPH, ADDL.A.G.**

RESPONDENTS/CLAIMANTS. :

- 1. NARAYANAN NAIR, THEKKAMADATHU HOUSE,
KAKKANAD.**
- 2. LAKSHMIKUTTY AMMA, W/O.VIJAYA KURUP,
THEKKAMADATHU HOUSE, KAKKANAD.**
- 3. SURESH KURUP, S/O.VIJAYA KURUP,
THEKKADAMATHU HOSUE, KAKKANAD.**
- 4. GOPAKUMAR, S/O.VIJAYA KURUP,
THEKKAMADATHU HOUSE, KAKKANADU.**
- 5. SAJEEV KUMAR, S/O.VIJAYA KURUP,
THEKKEMADATHUI HOUSE, KAKKANAD.**
- 6. KINFRA, VELLAYAMBLAM, TRIVANDRUM, REP. BY
THE MANAGING DIRECTOR.**

**R3 BY ADV. SRI.G.S.REGHUNATH
R2 TO R5 BY ADV. SRI.M.PABRAHAM**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD
ON 24-06-2015 ALONG WITH LAA 871/2004, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

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

L.A.A.Nos.473 & 871 of 2004

Dated this the 24th day of June, 2015

JUDGMENT

Ramachandran Nair, J.

Both these appeals are from the judgment and decree in LAR NO.54/1997 on the file of the III Addl. Sub Court, Ernakulam. These cases arise from the acquisition made for the purpose of the requisitioning authority for establishing an Export Promotion Industrial Park at Kakkanad. The notification under Section 4(1) of the Act was published on 31.1.1995 and advance possession was taken. The total extent involved is 31.20 ares comprised in Sy. No.604/11 of Kakkanad Village. The land value awarded by the Land Acquisition Officer is at the rate of Rs.14,700/- per are and the reference court enhanced the land value to Rs.23,992/- per are.

2. Heard learned counsel on both sides.

3. The main objection taken in the appeals is that the land value awarded is excessive and appeal from the relied on judgment, Ext.A1 is

pending. We find from the discussion of evidence, especially paragraphs 10 and 11 of the judgment of the reference court, that the reference court relied upon the judgment Ext.A1, in LAR No.47/1997 series. It is seen from the discussion also that the properties come under category II, i.e. dry land having frontage of Panchayat road and private road. Actually, the properties covered by Ext.A1 are wet lands having Panchayat road frontage, wherein this Court as per the judgment in LAA No.563/2000 and connected cases, has refixed the land value at Rs.21,000/- per are.

4. Learned counsel for the respondent submitted that as far as the land value fixed herein is concerned, the relevant judgment will be that of this Court in LAA No.100/2006 and connected cases wherein this Court has refixed the land value at Rs.25,850/- per are in relation to properties coming under category II itself, in the appeals filed by the State. It is submitted that the properties being on the side of the same Panchayat road, the said judgment will be relevant.

5. We find much force in the above argument. Of course, Ext.A1 produced was relied upon before the trial court, to fix a proper

value. In the light of the fact that this Court has considered various aspects in the judgment in LAA No.100/2006 and connected cases and the properties are similar and acquired by the same notification, the land value fixed therein, viz. Rs.25,850/- could be relied upon in this case also. Herein, the land value granted by the reference court is only Rs.23,992/- per are and there is no appeal filed by the claimant.

6. Therefore, we dismiss these appeals.

We have noticed that the court below has not granted the benefit under Section 23(1A) of the Act to the claimant. Since the date of Section 4(1) notification is 31.1.1995, the claimant will be entitled for the said benefit, viz. 12% per annum for the entire amount of compensation from 31.1.1995 to 5.7.1995 and the decree will stand modified to that extent.

The parties will suffer their costs in the appeals.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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