

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 4TH DAY OF JUNE 2015/14TH JYASHTA, 1937

LA.App..No. 206 of 2006 ()

**AGAINST THE JUDGMENT IN LAR 82/1991 OF II ADDITIONAL SUB
COURT,THIRUVANANTHAPURAM DATED 30-10-2004
APPELLANTS/CLAIMANTS 2, 3 AND 4::**

- 1. V.K. HARIKUMAR, LAKSHMI VILASAM BUNGALOW
VATTIYUR KAVU, THIRUVANANTHAPURAM.**
- 2. V.K. JAYARAM, DO. DO.**
- 3. K.S. VIJAYALAKSMI, DO. DO.**

**BY ADVS.SRI.E.V.NAYANAR
SRI.J.MARY HELP JOHN DAVID**

**RESPONDENTS:RESPONDENT & ADDITIONAL CLAIMANT NO.9, CLAIMANT 5 &
ADDITIONAL CLAIMANTS 7 & 8:**

- 1. THE STATE OF KERALA, REPRESENTED
BY SPECIAL LAND ACQUISITION OFFICER, (CORPORATION)
THIRUVANANTHAPURAM.**
- 2. THE SECRETARY, KERALA STATE HOUSING BOARD,
THIRUVANANTHAPURAM.**
- *3. S. PRASANNAKUMARI, VILASOM, RANDAMADA, VATTIYURKAVU,
THIRUVANANTHAPURAM (ADDRESS CORRECTED)**

**ADDRESS OF R3 CORRECTED AS:
NOVEMBER 23
TC 28-1394 (3)
SREE KANDESWARAM, FORT P.O.
THIRUVANANTHAPURAM 695 023
VIDE ORDER DATED 23.5.2013 IN I.A.729/2013 IN LAA 206/2006.**

LA.App..No. 206 of 2006 ()

**4. K.S. KUMARI USHA, 'USHUS',
T.C.10/1147 VATTIYURKAVU, THIRUVANANTHAPURAM.**

**5. V.K. GIRIDHARA GOPAN,
DO. DO.**

**R2 BY ADVS. SRI.P.C.IYPE, SC, KSHB
SRI.A.JAYASANKAR, SC KSHB, TVM
SRI.GEORGE BOBAN, SC, K.S.H.B.
R3 BY ADV. SRI.K.J.GEORGE KUNNUMPURATH**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

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

L.A.A.No.206 of 2006

Dated this the 4th day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

This appeal is filed by the claimants No.2 to 4 in LAR 82/1991 of the IInd Additional Sub Court, Thiruvananthapuram. The second respondent Kerala State Housing Board is the requisitioning authority. The notification under Section 4(1) was published on 24.2.1987 and the possession of the property was taken on 3.3.1987. The Land Acquisition Officer awarded land value at the rate of Rs.12,350/- per are which was enhanced by the reference court to Rs.15,548/- per are. In this appeal the claimants are claiming at the rate of Rs.12,500/- per cent.

2. We heard the learned counsel for the appellants Sri. Mary Help John David, learned Standing Counsel appearing for the Housing Board Sri. George Boban and the learned Senior Government Pleader Sri. Padmarajan.

3. The acquisition was for the purpose of the Housing Board. The property involved herein is comprised

in survey No.1745/8 of Randamada Village. The exact purpose for which the property was acquired is to form a road. The Housing Board had acquired a large extent of property belonging to the appellants themselves and others by a different notification for Mannarkonam Housing Accommodation Scheme and the notification under Section 4(1) therein was published on 11.8.1987.

4. At the outset learned counsel for the appellants submitted that the reference court in LAR No.84/1989 fixed the land value at the rate of Rs.20,695/- per are and the said judgment has been affirmed by this court in LAA No.2164/2008. The same relates to the adjoining properties acquired for Housing Accommodation Scheme.

5. The learned Government Pleader and the learned Standing Counsel for the Board submitted that adequate compensation has been granted in this case.

6. We find from a reading of the impugned judgment that third claimant was examined as AW1. Regarding the location of the property and the public institutions nearby his evidence is to the effect that Vattiyoorkavu Central

Polytechnic, I.S.R.O, Fibre Glass Unit, High School, Post Office, etc. are near the acquired property. Reliance was placed on Ext.A1 judgment i.e. judgment in LAR 21/89. It is observed by the reference court that the said judgment was set aside and again remanded for consideration and a fresh judgment was passed enhancing the compensation to Rs.15,548/- per are. The property in that case was in survey No.1745, 1746 and 1749 of Randamada Village. It was also noticed that the basic document was executed in the year 1984 and the date of notification under Section 4 (1) was of the year 1987. So by considering the possible increase during every year the land value was fixed at the rate of Rs.15,548/- as a reasonable one.

7. Great reliance is made by the learned counsel for the appellants on the judgment in LAR No.84/1989 which is confirmed by the Division Bench in LAA No.2164/2008. He also submitted that the acquired property is having more importance and is lesser in extent than the property acquired for the Mannarkonam Housing Accommodation Scheme. True that when a large extent of property is

acquired, the land value will be fixed after adjusting the amount towards development charges and other factors. Compared to a large extent of property an intending purchaser may offer more amount to the property having lesser extent which can be used as a housing site or a commercial site. The property is situated in Vattiyoorkavu which is an important area in Thiruvananthapuram. It is also submitted that the property is a garden land and could be used for residential purposes even at the time of acquisition. It had road access also. These factors, learned counsel for the appellants submitted that, will give more appreciable land value to it than the large extent of property acquired under the Mannarkonam Housing Accommodation Scheme. We find much force in the above argument.

8. As far as the acquired property is concerned the extent involved is 6.40 ares. In that view of the matter and due to location and importance it may fetch more value. We have also noticed the judgment in LAA No.228/2005 which was from the judgment in LAR No.21/1989. But there the

notification was published on 17.9.1985 much prior to the date on which the 4(1) notification in this case was published. This court fixed the land value at the rate of Rs.7500/- per cent.

9. After considering the said judgment and the judgment in LAA 2164/2008 and the location of the acquired property, we are of the view that the appellants are entitled for a reasonable enhancement of land value, which we fix it at the rate of Rs.10,000/- per cent. The appellants will also be entitled for all the statutory benefits as granted by the reference court.

The appeal is accordingly allowed. There will be no order as to costs in the appeal.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

shg/