

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

LA.App..No. 86 of 2012 ()

AGAINST THE JUDGMENT AND DECREE IN LAR 135/2009 ON THE FILE OF THE
ADDITIONAL SUB COURT,NORTH PARAVUR DATED 17-08-2011

APPELLANT/CLAIMANT:

PAULOSE
S/O.VAREETH, CHAKKUNGAL HOUSE, NEDUMBASSERY P.O.
ANGAMALY (VIA) .

BY ADVS.SRI.B.JAYASANKAR
SRI.K.SREESAKUMAR

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY
SECRETARIAT BUILDINGS, THIRUVANANTHAPURAM, PIN-695001.

2. DEPUTY CHIEF ENGINEER (CONSTRUCTION) ,
SOUTHERN RAILWAY, ERNAKULAM, PIN-682016.

R1 BY GOVERNMENT PLEADER SRI.ALOYSIOUS THOMAS.
R2 BY ADV. SRI.JOHN MATHEW,SC, RAILWAYS

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AL/-

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

L.A.A. No.86 of 2012

Dated this the 4th day of March 2015

JUDGMENT

Ramachandran Nair, J.,

This appeal is filed by the claimant aggrieved by the judgment and decree in L.A. R. No. 135/05 on the file of the Additional Sub Court, North Paravur. The land is having an extent of 5.75 ares in Block No.9 in Resurvey No. 109/09 at Nedumabassery Village. The acquisition was for the purpose of Angamaly-Sabarimala Railway line. The notification under Section 4(1) was dated 14.11.2006. The Land Acquisition Officer awarded land value at the rate of Rs. 1,00,076/- per Are. The appellant claimed land value at the rate of Rs. 2 lakh per cent. It was tried along with several other cases. But the reference court did not grant any enhancement on a finding that comparable sale deeds were not produced. In this appeal, enhancement claimed is at Rs. 2,15,954/- per Are.

2. Heard both sides.

3. At the outset, the learned counsel for the appellant submitted that the reference court ought to have allowed the claim since in L.A.R. No.75/2010 similar land value has been fixed at Rs. 3,16,030/-. We are of the view that in the light of the judgment in L.A.A.101/2012

which we have disposed of today by a separate judgment, the claimant is entitled to succeed. That case was in respect of similar item of land, acquired for the same purpose and as per the same notification. The land value refixed therein is at the rate of Rs. 2,65,000/- per Are.

In that view of the matter, the appeal is allowed. The claimant will be entitled to enhanced land value. The land value for the acquired property is fixed at Rs. 2,65,000/- per Are. The claimant will be entitled to all the statutory benefits under Section 23, (23 1 A) as well as Section 28 of the Land Acquisition Act and will also be entitled to proportionate costs in the appeal.

It is made clear that the compensation for injurious affection granted by the trial court will be sufficient.

Sd/-

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

Sd/-

**P.V.ASHA
(JUDGE)**

AL/-

18.3.2015

It is pointed out that when the delay in filing the appeal was

(Contd...2)

condoned, the Division Bench has directed in the order in C.M.Application No. 175/2012 that the appellant will not get interest for the period of 27 days. We also reiterate the same and interest under Section 28 of the Act for the said period will be excluded.

Sd/-

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

Sd/-

**P.V.ASHA
(JUDGE)**

AL/-

True copy

P.A to Judge