

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

LA.App..No. 1301 of 2005 ()

AGAINST THE ORDER/JUDGMENT IN LAR 34/2003 of III ADDL.SUB COURT,
ERNAKULAM DATED 21-08-2004
APPELLANT(S)/CLAIMANT NO.2.:

M.K.BABY, D/O. LATE KUMARA PILLAI,
40/6604, MOOTHEDATHU HOUSE, M.G.ROAD
COCHIN 682 035.

BY ADV. SRI.K.MOHANA KANNAN

RESPONDENT(S)/CLAIMANTS 1, 3 TO 5 AND KUDIKIDAPPUKARS 1 TO 6 AND
RESPONDENTS

1. DR.M.K.MONI, S/O. LATE KUMARA PILLAI, 40/6604 A,
KUMARA KRIPA, KRISHNASWAMY ROAD, ERNAKULAM
KOCHI.

2. M.K.CHANDRAN, S/O.LATE KUMARA PILLAI,
HOUSE NO.40/6604A, MOOTHEDATH HOUSE, M.G.ROAD
KOCHI 682 035.

3. M.K.MOHANAKUMAR, D/O.LATE KUMARA PILLAI,
HOUSE NO. 40/6604A, MOOTHEDATH HOUSE, M.G.ROAD
KOCHI 682 035. (name deleted and corrected)

4. M.K.SUDHALAKSHMI, D/O.LATE KUMARA PILLAI
HOUSE NO.40/6604A, MOOTHEDATH HOUSE, M.G.ROAD
KOCHI 682 035.

5. SMT.KUNJIKKAVU, W/O.LATE AYYAPPAN,
MUTTATHIL, KARSHAKA ROAD, ERNAKULAM.

6. SYLAJA, D/O.LATE AYYAPPAN, MUTTATHIL,
KARSHAKA ROAD, ERNAKULAM.

7. SIVADAS, S/O.LATE AYYAPPAN, MUTTATHIL
KARSHAKA ROAD, ERNAKULAM.

8. RENUKA, D/O.LATE AYYAPPAN,
MUTTATHIL, KARSHAKA ROAD, ERNAKULAM.

9. MAHESWARI, D/O.LATE AYYAPPAN,
MUTTATHIL, KARSHAKA ROAD, ERNAKULAM.

10. GIRIJA, D/O.LATE AYYAPPAN,
MUTTATHIL, KARSHAKA ROAD, ERNAKULAM.

11. STATE OF KERALA, REPRESENTED BY CHIEF
SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

12. THE SECRETARY,
GREATER COCHIN DEVELOPMENT AUTHORITY, KADAVANTHRA
KOCHI 682 020.
(NAME OF R3 IS CORRECTED AS M.K. MOHANAKUMARI AS PER ORDER DT.23.11.12
IN IA 1512/2012.)

R,R1 BY ADV. SRI.R.LAKSHMI NARAYAN
R,R1 BY ADV. SMT.R.RANJINI
R,R2 BY ADV. SRI.JAIJI ITTEN
R11 BY SR.G.P. SHRI R. PADMARAJ
R,R12 BY ADV. SRI.S.B.PREMACHANDRA PRABHU

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 23-02-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

L.A.A.No.1301 of 2005

Dated this the 23rd day of February, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant is claimant No.2 in LAR No.34/2003 of the IIIrd Addl. Sub Court, Ernakulam. The reference was made under Section 18 as well as Section 30 of the Land Acquisition Act.

2. The acquisition was for widening the entry into the eastern side of Ernakulam Junction Railway Station. The notification under Section 4(1) of the Act is dated 20.8.1999 and the property was taken possession of on 28.8.2002. A total amount of Rs.13,46,521/- was awarded as compensation including all statutory benefits. An amount of Rs.9,02,197/- was deposited in court as the title deed of the property in Sy. No.569/1-2 of an extent of 2.19 ares of property was not produced.

3. Learned counsel for the claimant submitted that the view

taken by the court below that the claimants are not entitled for enhanced land value as claimed, is not correct. It is submitted that the enhancement granted is adequate.

4. The evidence shows that apart from examining A.Ws.1 and 2, Exts.A1 to A7 have been marked. R.Ws.1 and 2 have been examined on the side of the respondents and Exts.B1 to B3 were marked apart from Exts.C1 to C4.

5. We heard learned counsel for the appellant, learned Government Pleader and learned counsel for the GCDA. We also heard learned counsel appearing for one of the party respondents.

6. The reference court fixed the land value at Rs.1,62,500/- per are, by guess work, mainly, as no other comparable sale deeds were available. We find from the discussion by the trial court in the judgment that one of the documents produced is relating to the property on the side of M.G.Road which is in an important locality (Ext.A4). The other document discussed referring to the Notes to

Award, is in relation to a property on the side of Thripathi Lane which is 1 ½ kms. away. By reckoning the time lag with the date of execution of the said document, and Section 4(1) notification, 30% increase was adopted for fixing the land value. For the building in the property 45% increase was granted. For injurious affection, Rs.1,50,000/- was awarded.

7. Learned counsel appearing for GCDA submitted that in the connected appeal, viz. in LAA No.496/2006 this Court did not interfere with the land value and the appeal was dismissed. The judgment was placed before us and we respectfully follow the same.

8. In the light of the above, we find no reason to interfere with the award of the reference court. Learned counsel for the appellant then submitted that the appellant has not been granted the statutory benefits. We have gone through the operative portion of the judgment. it is seen that general directions have been issued with regard to the same. But we make it further clear that the appellant will be entitled

for 30% solatium and 12% additional market value and interest under Section 28 of the Act, for the amount awarded to him.

The appeal is dismissed subject to the above observations. The parties will bear their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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