

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

LA.App..No. 703 of 2012 ()

AGAINST THE ORDER/JUDGMENT IN LAR 176/2003 of SUB COURT,
MUVATTUPUZHA DATED 27-07-2006

APPELLANT/CLAIMANT & ADDITIONAL APPELLANTS (LEGAL HEIRS OF THE
CLAIMANT):

1. KRISHNAN
S/O KUNJAN, KANNETHU MATTAKKUZHI (DIED)

2. THANKAMMA AGED 62 YEARS
W/O LATE KRISHNAN, KANNETH HOUSE
MATTAKUZHI THIRUVANIYOOR VILLAGE
VARIKOLI P.O 682308

3. SHAJI, AGED 41 YEARS
S/O LATE KRISHNAN, KANNETH HOUSE
MATTAKUZHI THIRUVANIYOOR VILLAGE
VARIKOLI P.O 682308

4. USHA, AGED 33 YEARS
D/O LATE KRISHNAN, KANNETH HOUSE
MATTAKUZHI THIRUVANIYOOR VILLAGE
VARIKOLI P.O 682308

BY ADVS.SMT.LATHA T.THANKAPPAN
SRI.K.C.PAULOSE
SRI.T.A.SHAJI (SR.)

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA, REP. BY THE DISTRICT
COLLECTOR, ERNAKULAM, KOCHI 682030

2. THE LEGAL OFFICER (SECRETARIAL),
KOCHI REFINERIES LIMITED, KUNDANNOOR, MARADU
682 304

R1 BY GOVERNMENT PLEADER SRI.R.PADMARAJ
R2 BY SRI.M.GOPIKRISHNAN NAMBIAR

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR
ADMISSION ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

L.A.A.No.703 OF 2012

Dated this the 12th day of February, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the claimant in L.A.R.No.176/2003 on the file of the Sub Court, Muvattupuzha. The property namely 10.50 Ares comprised in Sy.No.99/19 A,B & C of Thiruvaniyoor village was acquired for the purpose of increasing the refining capacity of Kochi Refineries Ltd. The notification under Section 4(1) was published on 4.11.2000. The land acquisition officer awarded land value @ ₹31,900/- per Are. Before the reference court the claimant sought enhancement of land value as well value of the buildings acquired. The reference court finally awarded land value @ ₹ 42,000/- per Are. The property is included in category No.3 namely dry land with access from road.

2. The learned counsel for the appellant relied upon the judgment of this Court in L.A.A.No.248/2008. It is submitted that the

property acquired therein is similar to the acquired property herein. It was acquired under the same notification and after considering various aspects, this Court has refixed the land value at ₹47,000/- per Are.

3. We have gone through the judgment. Therein also, the reference court had enhanced the compensation at ₹10,100/- per Are to ₹42,000/- per Are. This Court after considering various aspects enhanced the same. With regard to the enhancement sought for the building, the learned counsel for the appellant relied upon the judgment in L.A.A.No.797/2009. In paragraph 4 of the said judgment, after finding that there was no tangible evidence in support of the claim, this Court found that it is a matter of common knowledge that the Land Acquisition Authority valued the building for the purpose of acquisition on the basis of PWD's published schedule of rates. Construction of building in accordance with PWD's published schedule of rates is not a pragmatic proposition. Accordingly, additional compensation was granted which according to the learned counsel for the appellant is @ 30% over the value fixed by the land acquisition officer. The learned Senior Government Pleader also

submits that it will come to 30% of the value from what was awarded by the land acquisition officer. We therefore allow the appeal by fixing the market value of the acquired property at ₹47,000/- per Are and we also allow the claim with regard to enhanced value for the building by granting 30% over and above the value awarded by the land acquisition officer. It is made clear that the claimants will be entitled to all statutory benefits as granted by the reference court.

4. There is a delay of 2138 days in filing the appeal which was condoned by order in C.M.Appl.No.961/2012 on 3.7.2013. It has been made clear therein that even if the delay is condoned, for the enhanced land value, statutory interest for the period covered by the delay will not be granted. We reiterate the same and statutory benefits will be granted subject to the above direction.

The balance court fee will be paid by the appellant within ten days from today. Appeal is allowed as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE

sv.

P.V.ASHA, JUDGE