

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 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

LA.App..No. 863 of 2006 ()

AGAINST THE JUDGMENT IN LAR 74/2004 of II ADDL.SUB COURT,THRISSUR
DATED 18-07-2006

APPELLANTS/RESPONDENTS IN THE LAR::

1. STATE OF KERALA, REPRESENTED BY
SPECIAL TAHSILDAR (L.A.) GENERAL, THRISSUR.
2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, THRISSUR.
3. THE DISTRICT COLLECTOR, THRISSUR.

BY SR. GOVERNMENT PLEADER SRI.R.PADMARAJ

RESPONDENT/RESPONDENT/CLAIMANT::

SMT.DEVAKY, W/O.NAMBIATH HARIDASAN,
PURANATTUKARA.

BY ADV. SRI.P.V.CHANDRA MOHAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
26-02-2015, ALONG WITH LAA. 969/2007, LAA. 973/2007, CO. 80/2013,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

**L.A.A.No.863 OF 2006 & Cross Objection 80/2013,
L.A.A.Nos.969 & 973 OF 2007**

Dated this the 26th day of February, 2015

JUDGMENT

Ramachandran Nair, J.

All these cases are relating to acquisition for the purpose of establishment of Industrial Development Plots at Puzhakkal Padam. The notification under Section 4(1) of the Act was published on 29.7.2000. The land acquisition officer awarded land value @ ₹3,410/- per Are in L.A.A.No.863/2006 (L.A.R.No.72/2004). The land value fixed by the reference court is at ₹7042.35 per Are. In the cross objection, claimant has sought for further enhancement. In L.A.A.No.969/2007 also, Section 4(1) notification is dated 29.7.2000. The land value awarded by the land acquisition officer is @ ₹3710/- per Are . The reference court refixed the market value of the acquired property at ₹7042.35 per Are. In L.A.A.No.973/2007 also, the notification under Section 4(1) is on the same date. The land value

fixed by the land acquisition officer and by the reference court are at the same rate.

2. Both sides referred to judgments of this Court in various cases in support of their pleas. We have gone through the judgment in L.A.A.No.515/2006 and connected cases rendered by a Division Bench of this Court on 14.03.2011. Going by the details available from the judgment, it is seen that the date of Section 4(1) notification is 4.10.1999. The land value fixed by the land acquisition officer is @ ₹3,410/- per Are and the reference court had enhanced the same to ₹ 5631/- per Are. This Court refixed land value to ₹8,050/- per cent as evident from paragraph 16 of the judgment.

3. The learned Senior Government Pleader therefore submits that the said rate has to be adopted herein also. It is further submitted that in respect of the same acquisition as per a different notification, there is another judgment of this Court namely in L.A.A.No.809/2007 wherein also same value has been adopted.

4. The learned counsel for the claimants submitted that the

claimants are entitled for enhancement based on the time lag between the date of Section 4(1) notification in the first batch of cases as well as second batch of cases involved herein. It is submitted that there is a difference of ten months in between, which cannot be ignored. The learned counsel invited our attention to the well settled principles laid down by the Apex Court in that regard and submitted that the Apex Court has held that as far as urban properties are concerned, there can be an increase by 10% per Are.

5. The learned Senior Government Pleader submits that since there is judgment in L.A.A.No.809/2007 adopting the land value at ₹8,050/- per cent, the same will have to be treated as a precedent binding on this Court.

6. Sri.P.B.Krishnan, learned counsel appearing for the claimants in L.A.A.Nos.969/2007 and 973/2007 submits that this point was never raised or considered by the Division Bench and therefore this Court will be free to fix appropriate rate. We find force in the above submission, as this point was not seen raised in the said cases.

7. Having regard to the various aspects pointed out, we are of the view that the claimants in these appeals can be granted land value @ ₹8750/- per cent in the light of the time lag between the notification under Section 4(1) in the first batch of cases covered by the judgment of the Division bench in L.A.A.No.515/2006 and connected cases (4/10/1999) and in these cases. The claimants will also be entitled for statutory benefits as granted by the trial court.

L.A.A.No.863/2006 is dismissed. Cross Objection No.80/2013 in the said case is allowed and L.A.A.Nos.969/2007 and 973/2007 are also allowed. The claimants will also be entitled to proportionate cost in the appeals and in the cross objection.

T.R.RAMACHANDRAN NAIR, JUDGE

P.VASHA, JUDGE