

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

LA.App..No. 773 of 2012 (C)

AGAINST THE JUDGMENT IN LAR 44/2004 of II ADDL.SUB
COURT, THIRUVANANTHAPURAM DATED 11-08-2009

APPELLANTS/RESPONDENTS:

1. STATE OF KERALA
REP. BY THE DISTRICT COLLECTOR THIRUVANANTHAPURAM

2. THE EXECUTIVE ENGINEER
PWD (NH DIVISION) THIRUVANANTHAPURAM

BY GOVERNMENT PLEADER SRI.R.PADMARAJ

RESPONDENTS/CLAIMANTS:

1. S.KARUNAKARAN PILLAI
T.C 21/150 A JUDGE ROAD KARAMA
THIRUVANANTHAPURAM 695002 (DIED)

2. S.SUDHAKARAN PILLAI
T.C 21/150 A JUDGE ROAD KARAMA THIRUVANANTHAPURAM 695002

ADDITIONAL RESPONDENTS

3. SMT.BHAGAVATHY AMMA, W/O S.KARUNAKARAN PILLAI
TC 31/150, A JUDGE ROAD KARAMA
THIRUVANANTHAPURAM 695002

4. SRI.SHINE, S/O S.KARUNAKARAN PILLAI
TC 31/150, A JUDGE ROAD KARAMA
THIRUVANANTHAPURAM 695002

5. SRI.SHON, S/O S.KARUNAKARAN PILLAI
TC 31/150, A JUDGE ROAD KARAMA
THIRUVANANTHAPURAM 695002

* LEGAL HEIRS OF THE DECEASED FIRST RESPONDENT ARE
IMPLEADED AS ADDITIONAL RESPONDENTS 3 TO 5 VIDE ORDER DATED
12.1.2015 IN I.A.NO.531/2014.

ADDL.3-R5 BY ADV. SRI.RAM MOHAN.G.
ADDL.3-R5 BY ADV. SRI.G.P.SHINOD
ADDL.3-R5 BY ADV. SRI.MANU V.
ADDL.3-R5 BY ADV. SRI.GOVIND PADMANAABHAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

L.A.A.No.773 OF 2012

Dated this the 15th day of July, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the State aggrieved by the judgment in L.A.R.No.44/2004 on the file of the II Additional Sub Court, Thiruvananthapuram. The land was acquired for the widening of road from Karamana - Killippalam Reach II. The notification under Section 4(1) was published on 20.08.1998. The land acquisition officer awarded land value @ ₹2,07,774/- per Are. This has been enhanced by the reference court to ₹ 9,88,000/- per Are.

2. The learned Senior Government Pleader Sri.R.Padmaraj submitted that in respect of the very same acquisition this Court has refixed the land value at ₹6,17,284/- per Are in L.A.A.No.564/2012.

3. The learned counsel for the claimants Sri.Ram Mohan vehemently submitted that the claimants had heavily relied upon Ext.A1 document before the reference court. It is submitted that even

though the said document was rejected by the court below on the ground that the same is a photocopy alone, the certified copy of the same has been made available before this Court by the claimants along with I.A.No.294/2015.

4. We have gone through the judgment of the reference court. Ext.A1 was rejected for the reason that it is only a photocopy. Thereafter notes to award has been perused and one document noted as item 3 was referred to. It is the further reasoning of the trial court that in respect of another item of land acquired near the overbridge this Court has fixed the land value at ₹9 lakhs per cent. Therefore, considering the importance of Karamana junction, ₹4 lakhs per cent if adopted will be a reasonable value. It is on that basis the value has been enhanced and refixed at ₹9,88,000/- per Are.

5. Even though the learned counsel for the claimants submitted that Ext.A1 document will show the real value in the locality, we cannot agree. The same is actually a sale deed in respect of 1.651 cents with one residential building as well as a shop building there. Evidently, it is a building site and it is in the Chalai bazar. Therefore,

the appreciation for a plot of land is really noticeable. In that view of the matter, even though certified copy has been produced here in this appeal, we will not be justified in relying upon the same to justify the enhancement given by the reference court. As far as the reasoning adopted by the reference court, it is evident that the reference court had no occasion to go through the judgment of this Court in relation of the acquisition near the overbridge where ₹9 lakhs has been awarded. There was no other document before the reference court to grant enhancement. Therefore, re-fixation of land value at the said rate cannot be justified.

6. The learned counsel for the respondent raised a further argument based on the statement in Ground C of the appeal memorandum. It is argued that if the rate of enhancement from the value adopted by the land acquisition officer in relation to another extent of property covered in L.A.A.No.328/2009 is adopted, then herein the land value can be fixed at ₹ 7,57,100/- per Are. We cannot agree. As far as the basis of valuation by the land acquisition officer is concerned, the same may be based on various facts collected by the

land acquisition officer locally. But when this Court has refixed the land value based on the evidence in respect of various items of properties in the connected matters, wherein acquisition was also for the same purpose, the best method is to rely upon the judgment of this Court itself.

Therefore, according to us, the judgment in L.A.A.No.564/2012 will be relevant in fixing the land value herein especially since there is no other document to show the land value in that locality for enabling the claimants to have more enhancement than that is granted in L.A.A.No.564/2012. Therefore, by relying upon the said judgment, we refix the land value at ₹6,17,284/- per Are in this case also. The appeal is allowed to that extent alone. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.