

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 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

LA.App..No. 1547 of 2005 ( )

AGAINST THE ORDER/JUDGMENT IN LAR 185/2000 of III ADDL.SUB COURT,  
ERNAKULAM  
APPELLANT(S)/1ST RESPONDENT::

STATE OF KERALA REPRESENTED BY  
THE CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIAT  
TRIVANDRUM.

BY SR.GOVERNMENT PLEADER SHRI R. PADMARAJ

RESPONDENT(S)/CLAIMANTS/2ND RESPONDENT::

1. PAULOSE, S/O. CHERIA,  
PAVANAKKATT, KUZHIYANJAL, KUSUMAGIRI P.O.  
KAKKANAD. (DIED)

2. K.C. MATHEW, S/O. CHERIA,  
KUZHIYANJAL, KUSUMAGIRI P.O., KAKKANAD.

3. KERALA INDUSTRIAL INFRASTRUCTURE  
DEVELOPMENT CORPORATION (KINFRA), VELLAYAMBALAM  
TRIVANDRUM REPRESENTED BY  
THE MANAGING DIRECTOR - 2ND RESPONDENT.

ADDL. R4: SARAMMA PAULOSE, AGED 83, W/O. LATE CHERIYA PAULOSE,  
KUZHIYANJAL HOUSE, KUSUMAGIRI, KAKKANAD VILLAGE, KANAYANNUR TALUK,  
ERNAKULAM DISTRICT, REP. BY POWER OF ATTORNEY HOLDER K.P. VARGHESE  
S/O. LATE CHERIYA PAULOSE, DO. DO.

ADDL.R5: K.P. SKARIA, AGED 58, S/O. LATE CHERIYA PAULOSE, DO. DO.

ADDL.R6: K.P.BABY, AGED 54, DO. DO.

ADDL.R7: K.P.VARGHESE, AGED 49, DO. DO.

ADDL.R8: KUNJUMOL JACOB, AGED 45, D/O. DO. DO.

ADDL.R9: SOPHY TITUS, AGED 41, DO. DO.  
(ADDL. R4 TO R9 IMPEADED AS LEGAL HEIRS OF R1 VIDE ORDER IN IA  
1072/2014 DATED 1.7.2015)

R3 BY ADV. SRI.G.S.REGHUNATH  
RADDL.4-R9 BY ADV. SRI.VARGHESE C.KURIAKOSE

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 01-  
07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

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**L.A.A.No.1547 of 2005**  
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**Dated this the 1<sup>st</sup> day of July, 2015**

**JUDGMENT**

**Ramachandran Nair, J.**

This appeal is filed from the judgment and decree in LAR No.185/2000 on the file of the III Addl. Sub Court, Ernakulam. The land was acquired for the purpose of establishing an Export Promotion Industrial Park for KINFRA, viz. the requisitioning authority. The above reference case was disposed of along with another batch of cases. Those lands were acquired for the same purpose.

2. A total extent of 52 and above hectares of land was acquired and the Land Acquisition Officer had categorised the lands into various categories. The acquired property herein was included in category IX, viz. high lying wet land.

3. Heard both sides.

4. As far as the properties included in category IX are concerned,

the Land Acquisition Officer had fixed land value at the rate of Rs.4,715/- per are in this case. The reference court, after considering various documents, fixed the land value for category IX properties at the rate of Rs.13,600/- per are. This was done by adopting 42% deduction from the land value fixed for category III property. For category III, the land value fixed by the Land Acquisition Officer was at the rate of Rs.13,100/- per are which was enhanced to Rs.23,500/- per are by the reference court.

5. The properties including the acquired properties herein are situated only at a distance of 1 ½ kms. away from civil station. It was found by the reference court also that the property was lying in an important locality and various industrial and commercial establishments and Government offices are situated near the acquired land.

6. Learned counsel for the claimants submitted that in the connected cases arose from the very same acquisition, the notification under Section 4(1) of the Act was published in the Gazette on 31.1.1995, whereas herein the notification under Section 4(1) is dated

12.8.1997 and therefore there is a gap of more than 2 years. It is further submitted that even though such a gap of 2 years is there, the reference court has granted land value at the same rate for all the items of properties included in category IX. The submission made is that the enhancement granted herein cannot be said to be excessive.

7. Learned Senior Government Pleader submitted that the court below has enhanced land value after assessing the value reflected in the basic document which is not a correct method. But according to us, the court below was entitled to find out how and in what manner the Land Acquisition Officer has adopted the land value, since in these cases the entire extent was categorised into different categories. It was also found by the Reference Court that for the time lag viz. the date of execution of the basic document and the date of Section 4(1) notification herein, proper enhancement was also not granted. In fact, this Court, in the appeals filed from the connected cases, viz. LAA No.198/2006, etc., has already confirmed the land value awarded for category IX properties, at the rate of Rs.13,600/-.

In that view of the matter, according to us, the land value

awarded in this case cannot be said to be excessive for any reason. Therefore, the appeal fails and the same is dismissed. The parties will suffer their costs in the appeal.

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

**(K.P. JYOTHINDRANATH,, JUDGE.)**

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