IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

LA.App..No. 797 of 2012 (D)

AGAINST THE ORDER/JUDGMENT IN LAR 84/2010 of SUB COURT,THODUPUZHA DATED 19-07-2012

APPELLANT(S)/RESPONDENTS:
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1. THE STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR, IDUKKI.

2. THE EXECUTIVE ENGINEER
PWD ROADS DIVISION, IDUKKI.

BY SR.G.P. SHRI R. PADMARAJ

RESPONDENT(S)/CLAIMANT :

SRI.SHAJU.K.CHACKO
S/O. CHACKO, KUNNUMCHIRAYIL HOUSE, MANAKKAD
PIN-685 584.

R1 BY ADV. SRI.JOSEPH JOHN
R1 BY ADV. SRI.T.J.MICHAEL

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 04-08-2015, ALONG WITH CO. 109/2015, AND LAA 836/12 & CO 108/15 AND CONNECTED CASES, 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.797/12 & C.O. 109/15, LAA NO.836/12 & C.O. 108/15, LAA NO.793/12 & C.O. 105/15, LAA NO.769/12 & C.O.132/2015, L.A.A.NO. 344/12, L.A.A.NO. 798/12, L.A.A.NO.805/12, L.A.A.NO.781/12 & CO.127/2015, L.A.A.NO.531/12, L.A.A.NO.414/12, L.A.A.NO. 552/12, L.A.A.NO.354/12, L.A.A.NO.399/13, L.A.A.NO.438/13, L.A.A.NO.521/13, L.A.A.NO.533/13, LAA NO.12/13, LAA NO.801/13 & C.O.90/15, LAA NO.285/13 & LAA NO.326/13
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Dated this the 4th day of August, 2015

JUDGMENT

Ramachandran Nair, J.

All these appeals arise from the award of the reference court in various Land Acquisition Reference cases in relation to the acquisition for improvements to Irrukkumpuzha Bridge approach road. The total extent of the property acquired is 3.3990 hectares of land comprised in various survey numbers and the notification under Section 4(1) of the Act was published on 24.10.2008. The Land Acquisition Officer categorised the land into different groups and as far as the acquired properties herein are concerned, it was included in Group 4, viz. lands nearby municipal road and less important than group 3. The land value fixed by the Land Acquisition Officer in respect of the different categories are shown in page 20 of the award. We reproduce below the table showing the different categories of land and the value fixed:

	Group	*Extent*	*Document No. & date*	*Recommended Rate*	
1A	Dry land having State High Way Road frontage	0.0556	1004/06 dated 15.3.06 of Thodupuzha SRO	160750	65081
1B	Wet land converted to dry lands having State High Way frontage	0.0686	1486/06 dt.24.4.06 of SRO Thodupuzha	105770	42822
2	Lands having mud road facility and commercial importance	0.2550	1004/06 dt.15.3.06 of Thodupuzha SRO	88410	35794
3	Land nearby the Municipal road	0.8965	2749/08, 2750/08 dt.11.7.08 of Thodupuzha SRO	73400	29717
4	Land nearby the Municipal road and less important than group 3	0.5412	2749/08, 2750/08 dt.11.7.08 of Thodupuzha SRO	62390	25259
5	Wet land with Municipal Road accessibility but less importance of Thodupuzha twon	0.0262	2033/08 dt.20.5.08 of SRO Thodupuzha	13163	5327
6	Dry land without road accessibility	0.1750	2749/08, 2750/08 dt.11.7.08 of Thodupuzha SRO	53030	21470

Going by the above table, for Group 4, the land value fixed is Rs.62390/- whereas, for Group 3, it is Rs.73,400/-.

2. The reference court, while enhancing the land value, even

though referred to the contentions of the claimants on various aspects, it was guided by the judgment in LAR No.41/2010. The property involved therein was in Group 3 and the reference court granted land value at the rate of Rs.1,90,000/- per are. By giving a reasonable deduction, according to the said court, the land value has been refixed at Rs.1,61,500/- per are for properties in Group IV.

3. We heard learned Senior Government Pleader Shri Padmaraj appearing for the State and learned Senior Counsel Shri K.K. Chandran Pillai and learned counsel Shri Joseph John appearing for the claimants.

4. We find from the judgment of the reference court that various documents have been relied upon by the claimants in support of their claim for enhancement of land value which have been marked as Exts.A1, A2, etc. but the reference court found that they are not providing an excellent comparison and solely on the basis of the judgment in LAR No.41/2010, the land value has been enhanced. In all cases reports of Advocate Commissioners were also there which have been marked as Exts.X1, X2, X3, etc.

5. Before going into the further aspects of the matter, we find

from the award itself that the group of lands in Group 4 starts from 400 metres away from the west of Cryptoms factory. As far as the acquired properties adjoining the State Highway are concerned, they lie opposite to Kothaikunnu Municipal private bus stand and the proposed road starts from the west of the said bus stand. According to the learned Senior Counsel for the claimants, Shri K.K. Chandran Pillai, the distance from State Highway to the properties categorised as Group 4, is just above 400 metres, but it is submitted that as far as Group 4 items of properties are concerned, they are contiguous to the properties in Group 3 and there is no marked distinction as far as these items of properties are concerned, even though such a distinction was drawn by the Land Acquisition Officer.

6. When we consider these aspects in tune with the observations of the Land Acquisition Officer in the award itself, what we find is that the properties in Group 3 are near Thenamkunnu Church, St. Sebastian's High School, Cryptoms Factory, Cadbury's factory, etc. The properties are just 350 metres east and west of Cryptoms factory. Practically the same features are there as far as the properties in Group

4 are concerned which is clear from the notings of the Land Acquisition Officer. These group of lands start from 400 metres away from west of Cryptoms factory. The lands in Group 4 include agricultural land and house sites. But it is also mentioned that these groups of lands have great importance to the already mentioned commercial, industrial and public institutions mentioned in Group 3, the present road facilities and present physical characteristics.

7. While giving evidence, the claimants have taken out a commission to note the various features in the locality, the lie of the roads, the details of important institutions, etc. and the evidence through the Commissioner were available before the reference court. The Commissioner has also noted the importance of several institutions in the locality. But the learned Judge did not fully rely upon the Commission report by stating that the Commissioner was unable to ascertain the importance of various aspects as on the date of Section 4 (1) notification. But according to us, as far as the developments in the locality and other factors are concerned, since it is a township, those features cannot be ignored merely because the Commissioner visited

the property after the reference came. But apart from the report of the Commissioner, even going by the notings made by the Land Acquisition Officer in the award, the importance of the locality and other factors are evident and clear.

8. Therefore, according to us, even though the Land Acquisition Officer has given a much reduced value for the lands included in Group 4, as rightly pointed out by the learned counsel for the parties, the deduction to that extent cannot be fully justified.

9. In our judgment in LAA No.775/2012, in respect of lands situated on the side of the State Highway, we have refixed the land value at Rs.6,20,000/- per are. By adopting appropriate deduction, we have refixed the land value for lands included in Group 3 to Rs.3,10,000/- per are, as per our judgment in LAA No.712/2012 and connected cases which is filed from the judgment in LAR No.41/2010.

10. Even though the learned Senior Government Pleader argued that a much higher deduction ought to be granted for the distinction between the lands included in Groups 3 and 4 are concerned, according to us, only a reasonable deduction alone is required.

11. Therefore, we are of the view that as far as the lands included in Group 4 are concerned, instead of Rs.3,10,000/- awarded for the acquired properties in Group 3, it can be reasonably fixed at Rs.3 Lakhs per are.

12. Accordingly, the appeals filed by the State, viz. LAA Nos.797/12, 836/12, 793/12, 769/12, 798/12, 805/12, 781/12, 399/13, 438/13, 12/13, 801/13, 285/13 and 326/13 are dismissed. The appeals and cross objections filed by the claimants, viz. LAA Nos.344/12, 531/2012, 414/12, 552/12, 354/12, 521/13 and 533/13 and C.O.Nos.109, 108, 105, 132, 127, and 90 of 2015 filed by the claimants, are allowed by fixing the land value for the acquired properties therein, at Rs.3 Lakhs per are. The appellants in LAA Nos.344/12, 531/2012, 414/12, 552/12, 354/12, 521/13 and 533/13 and the cross objectors will be entitled for statutory benefits as granted by the Reference Court.

In the Cross Objections shown below, delay petitions have been allowed, condoning the delay in filing them subject to conditions. They are:

Sl. No.	Case No.	Extent of delay
1.	C.O.No.109/2015	365 days
2.	C.O.No.105/2015	507 days
3.	C.O.No.132/2015	172 days
4.	C.O.No.127/2015	304 days

We make it clear that for the period of delay, the cross objectors will not be entitled for interest under Section 28 of the Act and the grant of statutory benefits will be subject to the above. As far as the appeals and cross objections filed by the claimants are concerned, wherever there is deficiency in the court fee remitted, we grant two weeks time from today for remitting the balance court fee and the certified copies of decrees will be issued to such claimants only after remitting the balance court fee.

The parties will suffer their costs in the appeals and cross objections.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH, JUDGE.)

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