

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 19TH DAY OF OCTOBER 2015 / 27TH ASWINA, 1937

LA.App..No. 69 of 2015

AGAINST THE JUDGMENT IN LAR 4/2011 of SUB COURT, THODUPUZHA DATED
21-03-2014

APPELLANTS/RESPONDENTS 1 & 2:

1. STATE OF KERALA,
REPRESENTED BY DISTRICT COLLECTOR, IDUKKI.
2. THE EXECUTIVE ENGINEER,
P.W.D.ROADS SECTION, THODUPUZHA.

BY SR. GOVERNMENT PLEADER SRI.ALOSIOUS THOMAS

RESPONDENTS/CLAIMANT & 3RD RESPONDENT:

- *1. C.V.CHERIYAN,
S/O. CHERIYAN, CHERIVUPURAYIDATHIL, KUNNATHUR,
PATHANAMTHITTA (FOR CRYPTOMS CONFECTIONARIES) . (CORRECTED)
- * "CRYPTOMS CONFECTIONARIES PRIVATE LTD.,
ANAMKOTTU, THODUPUZHA-685584
REPRESENTED BY ITS MANAGING DIRECTOR
A.M.RAJAN, S/O MATHEW"
(CAUSE TITLE OF 1ST RESPONDENT IS CORRECTED AS ABOVE VIDE ORDER DTD.
7/3/2018 IN LAA 69/2015 AND CO 130/2015)
2. BRANCH MANAGER,
CANARA BANK, THODUPUZHA.

R1 BY ADV. SRI.MATHEW JOHN (K)
R1 BY ADV. SRI.DOMSON J.VATTAKUZHAY
R2 BY SRI.M.GOPIKRISHNAN NAMBIAR, SC, CANARA BANK

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 19-10-2015,
ALONG WITH CO.130/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OKB

P.R. RAMACHANDRA MENON & K. HARILAL, JJ.

L.A.A.No.69 of 2015 & C.O.No.130 of 2015

Dated this the 19th day of October, 2015.

JUDGMENT

Ramachandra Menon, J.

This appeal preferred by the State is against the enhancement in the judgment and decree in L.A.R.No.4/2011 passed by the reference court (Sub Court, Thodupuzha). The property having an extent of nearly 7.17 cents in Sy.No.329/2-9 of Thodupuzha Village was acquired for the construction of approach road to Irikkumpuzha bridge. The amount awarded by the Land Acquisition Officer to an extent of Rs.73,400/- per Are came to be enhanced by the reference court fixing the land value as Rs.2,40,000/- per Are. The ground of challenge is that the reliance placed on the verdict passed in L.A.R.No.7/2010 is not correct in so far as the same was under challenge in L.A.A.No.752/2012.

2. Heard the learned Government Pleader as well as the learned counsel appearing for the claimant/respondent.

3. The learned Government Pleader points out that similar matters have already been considered by this Court and, as per the common judgment dated 4.8.2015 in L.A.A.No.712/2012 and connected cases, has re-fixed the land value in respect of category No.3 as involved herein, providing Rs.3,10,000/- per Are with all statutory benefits to follow. The factual position in this regard is asserted by the learned counsel appearing for the 2nd respondent bank as well; who submits that the reference court, in the operative portion of the verdict in LAR No.4/2011, has made it clear that the respondent bank would have charge over the property and the compensation amount, and hence that the first claimant could withdraw the amount only with the consent of the respondent bank. The said stipulation might be ordered to be continued to govern the appeal as well; submits the learned counsel.

4. During the course of hearing, it is brought to the notice of this Court by the learned counsel appearing for the claimant that a building was situated in the property, which was valued by the authorities of the PWD as Rs.2,68,524/-. In many a case,

which were pending before this Court and disposed of, 30% enhancement of the valuation effected by the PWD has been awarded and that the claimant might be given this benefit as well.

5. The land value fixed by the Awarding Officer was enhanced to Rs.1,90,000/- per Are in other cases. But, in the instant case, it was enhanced to Rs.2,40,000/-. Still, after appreciating the facts and figures and the materials on record, the land value was re-fixed by this Court as Rs.3,10,000/-.

6. After hearing both the sides, this Court finds that the claimant is also entitled to have the similar benefits as given by this Court in other cases mentioned above fixing the land value as Rs.3,10,000/- per Are with 30% increase on the value of the building assessed by the PWD, plus all statutory benefits. It is ordered accordingly.

The appeal stands disposed of.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE

Sd/-

K. HARILAL, JUDGE

okb.

continued at page no.4

The words "The appeal stands disposed of" occurring as the last sentence of the judgment dated 19-10-2015 in L.A.A. No.69/2015 and C.O. No.130/2015 are corrected and substituted as "both the appeal as well as the Cross objection will stand disposed of" as per order dated 11-10-2017 in L.A.A. No.69/2015 and C.O. No.130/2015.

Sd/-
Registrar (Judicial)

okb.