

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

LA.App..No. 78 of 2015 ()

LAR. NO.82/2013 OF SUB COURT,THODUPUZA.

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APPELLANT/A-CLAIMANT:

**SANKARAN KRISHNAN,
MANAKUZHIYIL HOUSE, ARIKUZHA, MANAKKAD,
THODUPUZA, ERNAKULAM.**

**BY ADVS.SRI.S.ANANTHAKRISHNAN,
SRI.N.K.SUBRAMANIAN.**

RESPONDENTS/RESPONDENTS AND B CLAIMANT:

- 1. STATE OF KERALA,
REP. BY DISTRICT COLLECTOR,
PAINAVU P.O., IDUKKI.**
- 2. THE EXECUTIVE ENGINEER,
PWD ROADS DIVISION, PAINAVU P.O., IDUKKI.**
- 3. THE MANAGER,
KERALA FINANCIAL CORPORATION,
THODUPUZA.**

**R1 & R2 BY GOVT. PLEADER SRI.EGY N.ELIAS.
R3 BY ADV. SRI.T.V.GEORGE, SC, KFC.**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD
ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

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L.A.A.No.78 of 2015

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Dated this the 30th day of June, 2015.

J U D G M E N T

This appeal is preferred against the decision of the Subordinate Judge, Thodupuzha in a reference under Section 31 of the Land Acquisition Act, 1894, 'the Act' for short.

2. An extent of 0.0080 hectares of land in Survey No.243/8 of Manakkad Village was acquired for widening Thodupuzha-Ramamangalam Road. 'A' claimant in the proceedings is the owner of the property. 'B' claimant is the Kerala Financial Corporation. The reference was made on account of the rival claims for the compensation payable in respect of the acquired property.

3. Before the reference court, 'A' claimant produced the title deed of the property as also the ancillary

documents of the property such as tax receipt, possession certificate, encumbrance certificate, etc., to establish his title to the property. Though 'B' claimant claimed the compensation on the ground that the acquired property was mortgaged to them, they have not adduced any evidence to substantiate the said objection. Nevertheless, it seems that the reference court held that 'B' claimant is entitled to receive the compensation payable in respect of the acquired property. 'A' claimant who is the owner of the property is aggrieved by the said decision of the reference court. Hence this appeal.

4. Heard the learned counsel for the appellant as also the learned counsel for the respondent.

5. A perusal of the impugned judgment would indicate that there was nothing on record to show that the acquired property was mortgaged to 'B' claimant. The learned counsel for 'B' claimant though sought time on various occasions to produce documents evidencing mortgage of the acquired property before this Court, no

documents whatsoever has been produced by them. In the said circumstance, the impugned judgment is liable to be set aside.

In the result, the appeal is allowed and the impugned judgment is set aside. It is declared that 'A' claimant is entitled to receive the compensation payable in respect of the acquired property.

Sd/-
P.B.SURESH KUMAR,
(JUDGE)

Kvs

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PA TO JUDGE.