

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN**

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

LA.App..No.144 of 2015 ()

IN LAR 7/2012 of SUB COURT, MUVATTUPUZHA DATED 23.09.2014

APPELLANT(S)/RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR, ERNAKULAM**
- 2. THE EXECUTIVE ENGINEER,
P.W.D. ROADS DIVISION,
MUVATTUPUZHA.**

BY ADVS.GOVERNMENT PLEADER SRI.ALOYSIUS THOMAS

RESPONDENT(S)/CLAIMANT :

**ADV. JOHNY NELLOOR
NELLOOR HOUSE, RAMANGALAM KARA
(CHAIRMAN FOR KERALA CONGRESS PARTY (JACOB))**

BY ADV. SRI.P.K.RAVISANKAR

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD
ON 25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

**P.N.RAVINDRAN &
ANU SIVARAMAN, JJ.**
= = = = =
L.A.A.No.144 of 2015
= = = = =
Dated this the 25th day of May, 2015

JUDGMENT

Ravindran, J.

The appellants are the respondents in L.A.R.No.7 of 2012 on the file of the Court of the Subordinate Judge of Muvattupuzha. The sole respondent is the claimant therein. The brief facts of the case are as follows:-

2. A parcel of land, 3.50 Ares in extent, situated in survey No.380/6-8 of Marady village, Muvattupuzha Taluk, Ernakulam District, belonging to the respondent was acquired for the construction of Ernakulam-Thekkady road pursuant to a notification dated 15.03.2002 issued under section 4(1) of the Land Acquisition Act, 1894. After advance possession of the land was taken on 01.01.2010, by award passed on 07.10.2011 the Land Acquisition Officer awarded land value at the rate of ₹2,88,756 per Are, aggregating to ₹10,10,646/-. The respondent was held entitled to all statutory benefits including solatium and interest. Before the Land Acquisition Officer the respondent filed a statement dated 29.06.2007 claiming land value at the rate of ₹12,00,000/- per cent. Dissatisfied with the land value

awarded by the Land Acquisition Officer, the respondent received the amount awarded as compensation under protest and sought a reference of the dispute regarding the land value to the civil court. A reference was accordingly made to the Court of the Subordinate Judge of Muvattupuzha where it was taken on file and numbered as L.A.R.No.7 of 2012. Before the Reference Court, the respondent filed a claim statement dated 20.08.2011 reiterating the contentions raised by him before the Land Acquisition Officer and claiming land value at the rate of ₹12,00,000/- per cent together with all statutory benefits.

3. Before the Reference Court, no oral evidence was adduced. The claimant, however, relied on Ext.A1 judgment delivered by the very same court in L.A.R No.32 of 2011 which in turn related to a parcel of land situate in the very same locality and was acquired pursuant to the very same notification. On the ground that the Reference Court had in that case awarded land value at rate of ₹12,35,000/- per Are and on the further ground that both parcels of land are situate in the very same locality and are similarly placed, the Reference Court adopted the land value awarded by it in L.A.R.No.32 of 2011 and enhanced the land value payable in respect of the acquired land to ₹2,35,000/- per Are. However, on the erroneous

premise that the land value awarded by the Land Acquisition Officer is ₹16,52,460/- (the said sum represents not only the land value awarded by the Land Acquisition Officer, but also all the statutory benefits) the Reference Court held that the respondent claimant is entitled to receive a further sum of ₹26,70,031/- together with statutory benefits. The appellants have aggrieved thereby filed this appeal. The main ground raised in the instant appeal is that the land value awarded by the Reference Court in L.A.R.No.32 of 2011 has been modified by this Court in L.A.A.No.9 of 2014 and scaled down to ₹10,41,257/- per Are and therefore, the award passed by the Reference Court in the instant case is liable to be suitably modified.

4. We heard Sri.Aloysius Thomas, learned Senior Government Pleader appearing for the appellants and Sri.P.K.Ravisankar, learned counsel appearing for the respondent. A reading of the impugned judgment discloses that it was relying on Ext.A1 judgment in L.A.R. No.32 of 2011 that the Reference Court enhanced the land value to ₹12,35,000/- per Are in the place of ₹2,88,756/- per Are awarded by the Land Acquisition Officer. No other material had been relied on or placed before the court below to seek enhancement of the land value. It is not in dispute that the lands involved in the instant case as well as

lands involved in L.A.R.No.32 of 2011 are situate in the same locality and have the same advantages. The respondent claimant has no case that the land belonging to him has more advantages or that it is situated in a better locality having more commercial importance.

5. In such circumstances, as this Court has in L.A.A.No.9 of 2014 interfered with the award passed by the Reference Court in L.A.R No.32 of 2011 and fixed the land value at the rate of ₹10,41,257 per Are, we are of the opinion that the land value awarded by the Reference Court in the instant case is liable to be suitably modified. We accordingly allow the appeal and re-fix the land value payable in the instant case to ₹10,41,257/- per Are. Needless to say, the respondent will be entitled to all statutory benefits namely payment under section 23(1)A, solatium under section 23(2) and interest under section 28 of the Land Acquisition Act,1894 both on the land value and the solatium part of it. The appellants are directed to deposit the enhanced land value together with all statutory benefits calculated on the above basis in the court below for payment to the respondent claimant within two months from today, failing which, it will be open to the respondent claimant to realise the same from the appellants. We also deem it appropriate to clarify that while calculating the amount

required to be deposited towards land value as awarded by this Court, the quantification made by the Reference Court in paragraph 7 of the impugned judgment shall be ignored.

The parties shall bear their costs in this appeal. Needless to say, respondent claimant will be entitled to proportionate costs in the court below.

P.N.Ravindran,Judge

Anu Sivaraman, Judge

sj