

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

LA.App..No. 44 of 2013 ()

AGAINST THE JUDGMENT AND DECREE IN LAR 324/2007 ON THE FILE OF THE
II ADDITIONAL SUB COURT, THIRUVANANTHAPURAM DATED 30-07-2008

APPELLANT/RESPONDENT:

STATE OF KERALA

REP. BY THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER SRI.PADMARAJ.

RESPONDENT(S)/RESPONDENT/CLAIMANT AND 2ND RESPONDENT

1. P V EAPEN

S/O VARGHESE, RESIDING AT MANJATTOOR VEEDU
VENNIKKULAM P, KALLOOPARA-689 544.

2. THE MANAGING DIRECTOR,

THIRUVANANTHAPURAM
INTERNATIONAL AIRPORT DEVELOPMENT SOCIETY
THIRUVANANTHAPURAM-695001

R1 BY ADV. SRI.C.T.JOSEPH

R1 BY ADV. SRI.JOE POLLAYIL

R1 BY ADV. SRI.ROSHIN IPE JOSEPH

R1 BY ADV. SMT.R.S.REJITHA

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AL/-

**T.R.RAMACHANDRAN NAIR &
P.V.ASHA, JJ.,**

L.A.A. Nos. 44 of 2013 & 294 of 2013

Dated this the 22nd day of January 2015

JUDGMENT

Ramachandran Nair, J.,

Both these appeals relates to the challenge made by the State against the judgments of the reference court in L.A.R. Nos. 324/07 and 262/08. Since the issues are common, we heard the matters together and hence are disposed of together.

2. In L.A.A. 44/13 the extent of land involved is 4.90 Ares of land comprised in Survey No. 1885/3-2 of Pettah Village. In L.A.A. No. 294/2013, the extent of land involved is 1.05 Ares of dry land in Survey No. 487/2 of Pettah Village, Thiruvananthapuram. In both these appeals, the properties were acquired for the purpose of development of Thiruvananthapuram International Airport. The notification under Section 4(1) was dated 10.8.2004.

3. As far as L.A.A. 44/2013 is concerned, the Land

Acquisition Officer awarded land value at the rate of Rs. 1,62,686/- per Are which has been refixed to Rs. 16,54,307/- per Are by the reference court. In L.A.A. 294/13, the land value awarded by the Land Acquisition Officer is at the rate of Rs. 73,600/- per Are which has been enhanced to Rs. 13,39,000/- per Are. While doing so, the categorisation of properties has been changed to category No.I from category No.V.

4. Learned Sr.Government Pleader Sri. Padmaraj submitted, by relying upon the common judgment of this Court in L.A.A. No. 717/09 and connected appeals that, this Court has adopted the land value at the rate of Rs. 12 lakh for similar items of properties. Learned counsel appearing for the respondents/claimants submitted by relying upon the judgment in L.A.A. 370/2011, that therein the market value has been fixed by this Court for the same category of property at the rate of Rs. 13,39,000/- per Are. Learned counsel appearing for the respondents in L.A.A. 44/13 submitted that in L.A.A. 370/11, the respondent herein himself is a party and our attention is also invited to a sketch to show that the properties involved in L.A.A. 370/11 and L.A.A. 44/13 are lying side by side.

5. Learned Sr.Government Pleader submitted that the common judgment relied upon by him has discussed every one of the details and the land value is finally fixed at the rate of Rs. 12 lakhs. We have gone through the two separate judgments. As far as judgment in L.A.A 370/11 is concerned, it is dated 5.8.2011 later than the judgment in other batches of this Court. The reference court has relied upon the judgment in L.A.A. No. 370/2011.

6. The discussion on various aspects in the judgment in L.A.A. 370/2011 will show that this Court after considering various arguments, and after considering the common judgment in L.A.A. Nos. 566/2010, 688/2010, 395/2010 & 1144/2010 refixed the land value. While refixing the land value, as far as L.A.A. 370/2011 is concerned, it has been fixed at Rs. 13,39,000/- per Are. The learned counsel for the respondent pointed out that if some percentage of increase is calculated, by reference to the value awarded by the Land Acquisition Officer and the land value awarded by this Court in the judgment, it can be seen that the same percentage of increase as clear from the judgments in L.A.A.Nos. 568/2010 and 688/2010 (722%) has been applied by

the Division Bench.

7. We have gone through the discussion in the judgment in L.A.A. 370/11 to find out whether any special features of property have led to this Court to fix a higher amount than those fixed in the judgment relied upon by the learned Sr. Government Pleader. But we do not find any special features for the land involved therein also. But this Court has fixed the land value at the said price. Since the judgment is later in point of time, we will be justified in adopting the same value. Apart from the same, the respondent in L.A.A. 44/13 is a party to the judgment in L.A.A. 370/11. The judgment has become final and the same bind by the State also. In that view of the matter, we find that the same land value can be adopted herein also.

8. Therefore, we allow L.A.A. No.44/13 and refix the land value at the rate of 13,39,000/- per Are from Rs. 16,54,307/- granted by the reference court. L.A.A. 294/13 is dismissed. The parties will bear their costs.

9. Learned counsel appearing for the claimant in L.A.A. 44/13 submitted that the said respondent has received the enhanced amount granted by the reference court at the rate of

L.A.A. Nos. 44 of 2013 & 294 of 2013

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Rs. 16,54,307/- and therefore, now that this Court has refixed the market value he will be ready to re-deposit the differential portion and this Court may waive the interest portion. Learned Sr.Government Pleader opposed the said contention. Since the matter is not pending in execution, the respondent is free to deposit back the amount before the authority concerned. As the matter was pending in appeal before this Court, the competent authority will take appropriate decision considering the pleas of the respondent herein regarding waiver of interest in accordance with law.

Accordingly, the appeal No. 294/13 is dismissed and Appeal No. 44/2013 is allowed. No costs.

Sd/-

T.R.RAMACHANDRAN NAIR
(JUDGE)

Sd/-

P.V.ASHA
(JUDGE)

AL/-

True copy

P.A to Judge