

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

LA.App..No. 72 of 2013 (C)

AGAINST THE ORDER/JUDGMENT IN LAR 61/2006 of PRINCIPAL SUB
COURT,ATTINGAL DATED 22-08-2009

APPELLANT(S):CLAIMANT

RASHEED

S/O.KOCHADIMA RESIDING AT PLAVILA PUTHEN VEEDU

THATTATHUMALA PAZHAYAKUNNUMEL VILLAGE THIRUVANANTHAPURAM

BY ADV. SRI.J.HARIKUMAR

RESPONDENT(S):

THE SPECIAL TAHSILDAR (LA)

PWD(SC) THIRUVANANTHAPURAM 695 001

R BY SR. GOVERNMENT PLEADER SHRI R. PADMARAJ

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

L.A.A.No.72 of 2013

Dated this the 11th day of February, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is from the judgment and decree in LAR No.61/2006 on the file of the Sub Court, Attingal. The appeal is filed by the claimant who was the owner of 3.53 ares of dry land in Sy. No.155/23 of Pazhayakunnumel Village. It was acquired for the upgradation of Thycode-Koottarakkara State Highway pursuant to Section 4(1) published on 5.1.2002.

2. The Land Acquisition Officer fixed the land value at the rate of Rs.11,995/- per cent and the land was taken possession on 6.6.2005. The claimant claimed enhanced land value at the rate of Rs.5 Lakhs per cent and the reference court awarded Rs.40,000/- per cent.

3. We heard learned counsel for the appellant Shri J. Harikumar and learned Senior Government Pleader Shri R. Padmaraj for the

respondent.

4. It is pointed out that this Court in L.A.A. Nos.950/2010 and 1059/2010 approved the land value at the rate of Rs.75,000/- per cent in cases where the Land Acquisition Officer has fixed land value at the rate of Rs.8,754/- per cent. Those acquisitions were also for the same purpose as per the same notification and also during the same period. Learned counsel for the appellant pointed out that going by the same percentage of increase, it will be 856% and therefore the claimant will be entitled to at least Rs.1,02,775/- per cent.

5. Learned Government Pleader brought to our notice the judgment in LAA No.949/2010 which is a judgment rendered by this Bench wherein also the Land Acquisition Officer awarded land value at the rate of Rs.40,909/- per are which was enhanced to Rs.1,88,975/- per are by the reference court and this Court dismissed the appeal filed by the State. Therefore, the learned Senior Government Pleader submitted that the claimant is entitled only at the same rate, viz. Around Rs.75,000/- per cent.

6. By relying upon the notes to award, learned counsel for the

appellant submitted that the Land Acquisition Officer has fixed the land value at the rate of Rs.8,754/- in respect of category 'H'. Therein the land involved is wet land converted as dry land having no main road access and only having a pathway. We have perused the notes to award also from which it is confirmed that the same is the description of properties included in 'H' category. As far as the land acquired herein is concerned, it is a dry land having a commercial building which is on the side of M.C. Road also. In that view of the matter, there is clear difference in nature between the properties included in 'F' category as well as 'H' category.

7. In that view of the matter, we are of the opinion that since the claimant is awarded a higher value by the Land Acquisition Officer himself, by adopting the same yardstick the land value can be awarded in this case also. Therefore, we allow the appeal and the market value of the land is refixed at the rate of Rs.1,02,775/- per cent.

We also notice that this Court, by order dated 26.2.2013 in C.M. Appl. No.88/2013, has condoned the delay on condition that if ultimately the land value is enhanced, the appellant will not be entitled

for interest on the enhanced compensation for the period covered by the delay. There was a delay of 1094 days in filing the appeal. Therefore, we reiterate the same and the appellant will not be entitled for interest under Section 28 of the Act, for the above period. Subject to the above modification, the claimant will be entitled to all other statutory benefits as granted by the reference court. The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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