

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

LA.App..No. 136 of 2013 ()

AGAINST THE ORDER/JUDGMENT IN LAR 58/2008 of II ADDL.SUB
COURT,TRIVANDRUM DATED 20-12-2008

APPELLANT(S)/RESPONDENT NO.1:

STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM.

BY ADV. GOVERNMENT PLEADER

RESPONDENT(S)/CLAIMANT AND RESPONDENT NO.2:

1. VIJAYAKUMARAN NAIR
T.C. M/2173(1), UTHRADOM, KALPAKA NAGAR
MARAPPALAM, THIRUVANANTHAPURAM-695001.

2. THE SECRETARY
TRIDA, THIRUVANANTHAPURAM-695001.

RR-R1 BY ADV. SRI.MILLU DANDAPANI
R2 BY ADV. SRI.M.RAJAGOPALAN NAIR

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

L.A.A.No.136 of 2013

Dated this the 30th day of January, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed from the judgment in L.A.R. No.58/2008 of the II Addl. Sub Court, Thiruvananthapuram. The land was acquired for the purpose of widening of Pattom - Kowdiar road for TRIDA. The notification under Section 4(1) of the Act was issued on 16.9.2004 and the Land Acquisition Officer fixed land value at Rs.1,60,056/- per are. The reference court enhanced the same and refixed at Rs.28 Lakhs.

2. The main ground taken in the appeal is that from the judgment Ext.A3 relied upon by the reference court, viz. LAR No.279/2007, an appeal was filed as LAA No.26/2011. This Court in the said judgment, has reduced the land value from Rs.28 Lakhs to Rs.21,38,390/-.

2. Learned Senior Government Pleader relied upon a judgment of this Court in LAA No.641/2013 wherein also the notification under

Section 4(1) was issued on 16.9.2004 and the land was acquired for the very same purpose. Therein also, the Land acquisition Officer awarded land value at Rs.1,60,050/-. The reference court re-fixed the land value at Rs.22 Lakhs, by relying upon the judgment of this Court in LAA No.1063/2010. While considering various aspects, we have referred to the fact that by the judgments in LAA Nos.439/2011 and 452/2012 from the very same acquisition for the purpose of widening of Pattom-Kowdiar road, this Court re-fixed the land value at Rs.22 Lakhs per are. Therefore, after considering various aspects, we have affirmed the award of the reference court fixing the land value at Rs.22 Lakhs. Learned Senior Government Pleader submits that in this case also the same value may have to be adopted.

3. Learned Senior Counsel appearing for the claimant referred to another judgment of this Court in LAA No.1204/2010 wherein this Court had fixed the value for a property which was acquired for the same purpose, at Rs.24 lakhs per are. Our attention is also drawn to

the report of the Advocate Commissioner in this case.

4. As far as LAA No.1204/2010 is concerned, the notification under Section 4(1) is dated 30.11.2004, ie. two months after the notification in this case. Therein also, the land value fixed was at Rs.1,60,050/- which was enhanced to Rs.28 lakhs and this Court reduced it to Rs.24 lakhs. We find from the judgment that while fixing the land value, this Court noted that the property acquired therein is near to Pattom junction. As far as the acquired property herein is concerned, it is seen that in the claim statement the claimant has stated that the property is near Marappalam Junction and going by the report of the Commissioner, for reaching the acquired property one has to take a road towards right side from a junction in between Pattom and Marappalam and then proceed by $\frac{1}{2}$ km. through Marappalam - P.T.P. Junction. Therefore, it does not appear that the property is situated in Marappalam Junction itself as claimed by the claimant.

5. In that view of the matter, we will be justified in adopting the

land value adopted by this Court in LAA No.641/2013. Therefore, we allow the appeal and refix the land value at Rs. 22 Lakhs per are. No costs.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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