IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

LA.App..No. 351 of 2013 ()

IN LAR 711/2008 of II ADDL.SUB COURT, TRIVANDRUM DATED 05-11-2012

APPELLANT(S)/1ST RESPONDENT:

STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM.

BY SENIOR ADV.GOVERNMENT PLEADER R.PADMARAJ

RESPONDENT(S)/CLAIMANT & 2ND RESPONDENT :
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1. KRISHNA KUMAR P.T.
   KRISHNA VIHAR, T.C.2441, AMBALAMUKKU
   KOWDIAR P.O. THIRUVANANTHAPURAM- 695 003

2. THE SECRETARY
   THIRUVANANTHAPURAM DEVELOPMENT AUTHORITY
   THIRUVANANTHAPURAM- 695 001.

R1 BY ADV. SRI.J.HARIKUMAR
R2 BY ADV. SRI.K.A.JALEEL, SC., TRIDA

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 19-08-2015, ALONG WITH CONNECTED CASES; THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

VS

T.R.RAMACHANDRAN NAIR, &
K.P.JYOTHINDRANATH, JJ.

L.A.A.Nos.351/13, 426/13, 299/13, 340/13,
305/13, 837/13, 20/14,
669/12 with CO.No.6/13 &
L.A.A.No.16/13 with CO.No.18/13

Dated this the 19th day of August, 2015

JUDGMENT

T.R.Ramachandran Nair, J.

All these cases are related to the acquisition of land for the purpose of widening road from Kowdiar to Vazhayila by the 2nd respondent requisition authority (TRIDA). The notification under Section 4(1) of the Land Acquisition Act was published on 11.06.2007. The land acquisition officer fixed the land value at the rate of Rs.5,84,053/- per Are. We take L.A.A.No.351/2013 as the leading case.

2. Heard Sri.R.Padmaraj, learned Senior Government Pleader and Sri.J.Harikumar, learned counsel for the claimants.

3. The reference court has considered various reference cases together and rendered a common judgment in L.A.R.No.711/2008 and connected cases. The learned Government Pleader submits that the view taken

by the reference court to enhance the land value cannot be sustained. It is submitted that the reference court relied upon the judgment of this Court in LAA.No.1063/2010 for granting compensation. The acquisition therein was for a road namely Pattom-Kowdiar road. By giving an enhancement of 20%, as the rate for the escalation for the time gap between the date of notification under Section 4(1) in that case(30.10.2004) and the date of the notification in this case, land value has been fixed as Rs.26,40,000/- per Are. It is submitted that the said judgment ought not have been relied upon and as the reference court did not rely upon Ext.A1 produced by the claimant no other legal evidence was there.

4. The learned counsel for the claimants Sri.J.Harikumar submitted that actually Ext.A1 document ought to have been relied upon by the reference court. It is submitted that on the first occasion, the reference court did not rely upon the same and the claimants in

L.A.R.711/2008 filed LAA.No.126/2012. This court found that the reason stated for rejection of the document was not correct and remanded the matter for fresh consideration. By referring the said document Ext.A1, it is pointed out that the property therein was sold for a sale consideration for Rs.1 Crore and the land value per cent is Rs.15 lakhs. The property in Ext.A1 is situated further away from Ambalamukku junction and the acquired properties are on both sides of the main Kowdiar-Ambalamukku road. The said area was already a highly developed area with lot of financial establishments and important public institutions etc. Therefore, the learned counsel submits that Ext.A1 ought to have been relied upon by the reference court and the land value should have been fixed accordingly. It is also submitted that the trial court did not rely upon Ext.A1, for the reason that it had got frontage to two roads namely (1) Dharmapalan Road and (2) Peroorkada - Vazhayila road. The learned counsel further submits that even going by the method now adopted by the reference court, the claimants would have been entitled for more amount as land value. It is submitted that the judgment relied upon is one relating to the development of Pattom - Kowdiar road, which is a road leading from Pattom Palace junction to Kowdiar, which is of less importance compared to the Kowdiar - Peroorkkada road. The learned counsel submits that Kowdiar - Peroorkkada road is a State highway leading to Chenkotta in the State of Tamil Nadu.

5. We have considered the rival submissions. Of course, we find that since relevant evidence was there to find that the acquired properties were more important than those acquired for Pattom - Kowdiar road, by a process of assessment, a reasonable amount should have been granted. But we are not going to the said aspect, since as of now the advantage of the judgment of this Court in respect of the acquisition of Pattom - Kowdiar road is there. There the land value fixed was at the rate of Rs.22 lakhs per Are and the notification under Section 4

(1) was published on 30.10.2004. Therefore there is a time gap of two years and 8 months. The reference court has adopted 10% annual increase for the purpose of calculating the escalation. Therefore there will be increase by 27.5% of the value. But again the court reduced 7.5%, on a finding that the acquired properties are situated further away from the centre of the State than the properties acquired for Pattom - Kowdiar road. We cannot agree with the said findings. As far as the Kowdiar- Peroorkkada road is concerned, it is also a nerve centre as far as Trivandrum city is concerned and the road starts from the front side of Kowdiar Palace itself. The same is a well known factor. Therefore the importance of the locality cannot be minimised. The Pattom - Kowdiar road is a road connecting the State Highway namely Trivandrum - Chenkotta road with the National Highway.

6. Hence, we are of the view that the total rate of increase calculated ought to have been adopted. If that be so a value will be Rs.28,00,000/-(Rupees Twenty eight

lakhs only). In that view of the matter, no interference is called for in the State's appeals. Therefore the LAA.Nos.351/13, 426/13, 299/13, 340/13, 305/13, 20/14, 837/13 are dismissed.

7. As far as LAA.Nos.669/12 and 16/13 are concerned, the land value fixed only at the rate of Rs.22 lakhs per Are. The evidence adduced are the same and the advantages are also the same. As we have already considered in LAA.No.351/13, the State has come up in appeal, aggrieved by the grant of amount of Rs.22 lakhs per Are. We have already found that even the grant of amount at the rate of Rs.26,40,000/- was not a correct one and the claimants were entitled for amount at the rate of Rs.28 lakhs per Are. In the Cross Objections filed by the claimants namely Cross Objection No.18/2013 in LAA.No.16/2013 and C.O.No.6/2013 in LAA.No.669/2012 the claim is at the rate of Rs.28 lakhs. They have claimed an amount of Rs.28,00,000/- per Are. The claimants are justified in claiming the amount as already found by us in

the above cases that the land value at the rate of Rs.28 lakhs would have been reasonable.

Therefore we dismiss the LAA.Nos.669/12 and 16/2013 and allow Cross Objection Nos.6/2013 and 18/2013. The claimants in these cross objections are entitled for statutory benefits as already granted by the reference court. Accordingly the appeals filed by the State are dismissed and the Cross Objections are allowed. Parties will suffer their costs in the appeals.

Sd/-
T.R.RAMACHANDRAN NAIR,
JUDGE

Sd/-
K.P.JYOTHINDRANATH,
JUDGE

vs