

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

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

**THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937**

**LA.App..No. 360 of 2013 ()**  
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**IN LAR 823/2008 of II ADDL.SUB COURT, TRIVANDRUM DATED 5.11.2012**  
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**APPELLANT(S)/RESPONDENT NO.1:**  
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**STATE OF KERALA  
REPRESENTED BY THE DISTRICT COLLECTOR  
THIRUVANANTHAPURAM.**

**BY SENIOR ADVS.GOVERNMENT PLEADER SRI.R.PADMARAJ**

**RESPONDENT(S)/CLAIMANT AND 2ND RESPONDENT:**  
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- 1. KUMARI GOPIKA DEVI  
T.C 5/1930-2, GOKUL, AMBALAMUKKU  
THIRUVANANTHAPURAM - 695 001.**
- 2. THE SECRETARY  
THIRUVANANTHAPURAM DEVELOPMENT AUTHORITY  
THIRUVANANTHAPURAM - 695 001.**

**R1 BY ADV. SRI.J.HARIKUMAR  
R2 BY ADV. SRI.M.RAJAGOPALAN NAIR**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 20-08-2015, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**VS**

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

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**LAA.Nos.360 & 329 of 2013, 670, 639, 488,  
39, 24, 873 of 2014, 122/2013 with  
CO.No.23/2013, 755/2012 with CO.No.12/2013  
& 756/2012 with CO.No.10/2013**  
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Dated this the 20<sup>th</sup> day of August, 2015

**JUDGMENT**

T.R.Ramachandran Nair, J.

These appeals and cross objections are related to different reference cases. The appeals are respectively from the judgments and decrees in LAR Nos.823/2008, 754/2008, 767/2008, 743/2008, 725/2008, 814/2008, 756/2008, 369/2009, 768/2008, 759/2008, 753/2008.

2. The properties are situated in Peroorkada, Kudappanakunnu and Kowdiar villages. They were acquired for the same purpose namely for widening the road from Kowdiar – Vazhayila by the second 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 has adopted land value at different rates namely Rs.5,84,200/-, Rs.6,48,949

and Rs.5,84,054/- etc.

3. The reference court in LAR.Nos.768, 759, 753 & 767 of 2008 has re-fixed the land value at the rate of Rs.22 lakhs per Are. In LAR.Nos.823, 754, 743, 725, 814, 756, of 2008 and LAR.No.369 of 2009 has fixed the land value at the rate of Rs.26,40,000/-. The State, aggrieved by the re-fixation of the land value, has filed separate appeals in these cases and the claimants in three cases have filed cross objections. LAA No.670/14 is the appeal filed by the claimants from LAR.No.767/08. There in the land value claimed is at the rate of Rs.27 lakhs and in other cases where cross objections have been filed, the claim is at the rate of Rs.28 lakhs namely in C.O.No.23/13 in LAA.No.122/13, C.O.No.12/13 in LAA.No.755/12 and C.O.No.10/13 in LAA.No.756/12..

4. We heard Sri.R.Padmaraj, learned Senior Government Pleader and Sri.J.Harikumar, learned counsel for the claimants.

5. The reference court has re-fixed the land value mainly by relying upon the judgment of this Court in LAA.No.1063/2010, which related to the acquisition of land for the purpose of widening the road i.e., Pattom – Kowdiar road.

6. The claimants had relied upon Ext.A1 sale deed, which was not relied upon by the reference court.

7. We have in our judgment, in LAA.Nos.351/13 and connected appeals, rendered on 19.08.2015 considered all aspects relating to the claim for enhancing the land value. After considering the contentions on both sides, we have held that the re-fixation of land value at the rate of Rs.28 lakhs per Are will be reasonable and have disposed of all appeals and cross objections accordingly.

8. The acquisition herein being for the same purpose, the same method can be adopted herein also. Even though the reference court had relied upon the

judgment of this Court relating to the acquisition of road from Pattom – Kowdiar, we have held that the road starting from Kowdiar to Vazhayila is a more important one and the same is a State Highway. We have found in our judgment in LAA.No.351/2013 as follows.

*“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."*

9. Hence, we are of the view that the whole rate of increase calculated will have to be adopted. If that be so the value of land acquired will be Rs.28,00,000/- (Rupees Twenty eight lakhs only). In that view of the matter, no interference is called for in the appeals filed by the State. Therefore the appeals filed by the State, namely LAA.Nos.360/13, 329/13, 122/13, 755/12, 639/14, 488/14, 39/14, 24/14, 873/14 and 756/12 are dismissed.

10. The appeal filed by the claimant as LAA.No.670/2014 is allowed and the land value is re-fixed at Rs.27 lakhs for the property acquired therein. We allow the Cross objection Nos.23/2013 in LAA.No.122/2013, 12/2013 in LAA.No.755/2012, and 10/2013 in LAA No.756/12 and the claimants in all these cases will be

entitled for land value at the rate of Rs.28 lakhs per Are.

11. In LAA.No.670/2014 there is a delay of 846 days in filing the appeal and it was condoned on 28.10.2014 on a condition that if the appeal is ultimately allowed, the claimant may not be entitled to get interest under Section 28 of the Act for the period covered by the delay, which we confirm.

Therefore in LAA.No.670/14 the claimant will be entitled to statutory benefits subject to the above condition. The Cross objectors in C.O.Nos.23/13, 12/13 and 10/13 will be entitled for statutory benefits as granted by the reference court. Parties will suffer their costs in the appeals.

Sd/-  
**T.R.RAMACHANDRAN NAIR,**  
**JUDGE**

Sd/-  
**K.P.JYOTHINDRANATH,**  
**JUDGE**

VS