

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

LA.App..No. 362 of 2013 ()

AGAINST THE JUDGMENT IN LAR 89/2010 of SUB COURT,THODUPUZHA
DATED 30-07-2012

APPELLANTS/RESPONDENTS IN LAR:

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1. STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR, IDUKKI.
 2. THE EXECUTIVE ENGINEER, PWD ROADS DIVISION, IDUKKI

BY SENIOR GOVERNMENT PLEADER SRI.R.PADMARAJ

RESPONDENTS/CLAIMANTS IN LAR:

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1. MARY JACOB
KANIYAMMOOZHYYIL HOUSE, THALAMATTOM KARA
THODUPUZHA- 685 584.
 2. PLESSY JACOB, KANIYAMMOOZHYYIL HOUSE, THALAMATTOM KARA,
THODUPUZHA 685 584.
 3. JINCY JACOB, KANIYAMMOOZHYYIL HOUSE, THALAMATTOM KARA
THODUPUZHA 685 584.
 4. JAICY JACOB, KANIYAMMOOZHYYIL HOUSE, THALAMATTOM KARA,
THODUPUZHA 685 584.

R1-R4 BY ADV. SRI.JOSEPH JOHN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
03-08-2015, ALONG WITH CO.NO.107 OF 2015, L.A.A.393/2013 & CROSS
OBJECTION 151/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKA

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

L.A.A. No. 362 of 2013
& Cross Objection 107/2015 and
L.A.A.No.393 of 2013 and
Cross Objection 151/2014

Dated this the 3rd day of August, 2015

JUDGMENT

T.R.Ramachandran Nair, J.

Both the appeals and the cross objections are filed from the judgments and decrees in L.A.R.Nos. 89/2010 and 7/2011 of Sub Court, Thodupuzha.

2. The properties have been acquired as per notification under Section 4(1) of the Act dated 24.10.2008. The acquisition was for the construction of approach road to Irrukumpuzha bridge. The land acquisition officer has categorized various items of properties into different groups and as far as the acquired properties herein are concerned, they are grouped under Group IA. These are dry lands having frontage to State Highway.

3. The Land Acquisition Officer awarded the land value @ Rs. 1,60,750/- per Are which was enhanced by the reference court to Rs.4,16,110/- per Are.

4. Heard both sides.

5. As far as the fixation of land value is concerned, what we find from the judgment is that, even though the claimants produced Exts.A1 to A6 and report of the Commissioner was available as Ext.X1, the Reference Court after rejecting all the items of evidence, relied upon the judgment in L.A.R.No.41/2010 and enhanced the land value. The land value initially fixed by the Land Acquisition Officer is @ Rs.1,60,750/- per Are which has been enhanced to Rs.4,16,110/- per Are.

6. The argument raised by the learned counsel for the Cross Objector is that the documents, Exts.A2 and A5 in LAR 89/2010 (Exts.A2 and A3 in LAR 7/2011) reflect the true land value in the locality and it is submitted that, after giving enhancement for the time lag between the date of execution of the documents, a reasonable market value can be fixed in this case. Therefore, the learned counsel submits that the Cross

Objections are to be allowed.

7. The learned Senior Government Pleader opposed the said contention and submitted that only comparable sale deeds can be relied upon by the Reference Court and this Court. We have considered the rival submissions. In fact, the very same documents have been considered by us in the connected cases in L.A.A. 775/2012 and Cross Objection 100/2012. We have refixed the value at Rs.6,20,000/- per Are after elaborate consideration of various aspects including the importance of the locality i.e. commercial importance as well as the potential nature of the acquired properties therein for use as commercial plots. The acquired properties therein are also on the side of the State Highway and hence the properties are similarly situated.

8. The approach made by the Reference Court in rejecting the evidence adduced by the claimants therefore cannot be supported. The Reference Court also had concluded that the land value fixed by the Land Acquisition Officer does not reflect the true value in the locality at the time of Section 4(1) notification. In the light of the fact that this Court had refixed

the land value at Rs.6,20,000/- in L.A.A.No.775/2012, that was also in respect of the property in the same group, the claimant will also be entitled to the same value. Therefore, we allow the Cross Objections and dismiss the appeals.

9. Apart from the same, the claimant in L.A.A. 362/2013 is the same claimant in L.A.A.No.775/2012. We allow the Cross Objections 107/2015 in L.A.A.362/2013 and 151/2014 in L.A.A.393/2013 and we also hold that the claimants will be entitled to all the statutory benefits as granted by the Reference Court.

10. In Cross-objection 107/2015, there is a delay of 271 days in filing the same. We make it clear that the claimants will not be entitled for the interest under Section 28 of the Act for the above period and the grant of statutory benefits will be subject to the above.

As far as Cross-Objection 151/2014 is concerned, there is a delay of 168 days in filing the Cross-Objection and we clarify that the claimant will not be entitled for interest under Section 28 of the Act for the above period and grant of statutory benefits

will be subject to the above. The parties will suffer their costs
in the appeals and Cross Objections.

Sd/-

T.R.RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P.JYOTHINDRANATH
JUDGE

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/true copy/

P.S to Judge.