

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 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

LA.App..No. 371 of 2013 (C)

AGAINST THE JUDGMENT AND DECREE IN LAR 110/2009 of ADDL.SUB
COURT,NORTH PARAVUR DATED 16-12-2011

APPELLANTS/1ST RESPONDENT:

STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR, ERNAKULAM.

BY ADVOCATE GENERAL SHRI K.P.DANDAPANI
SENIOR GOVERNMENT PLEADER SRI L.ALOYSIUS THOMAS

RESPONDENT(S)/CLAIMANTS AND 2ND RESPONDENT:

1. SMT.THANKAMMA JOHNEY
W/O.JOHNEY, PALATTY HOUSE, VAPPALASSERY-683 572.

2. SRI.BINU JOHNEY
S/O.JOHNEY, PALATTY HOUSE, VAPPALASSERY-683 572.

3. SRI.ANTO JOHNEY
S/O.JOHNEY, PALATTY HOUSE, VAPPALASSERY-683 572.

4. SMT.ROSY HERMIS
M/O.JOHNEY (DIED), PALATTY HOUSE
VAPPALASSERY-683 572.

5. THE DEPUTY CHIEF ENGINEER
(CONSTRUCTION), SOUTHERN RAILWAY, ERNAKULAM-682 031.

R1 TO 3 BY ADV. SRI.PAUL JACOB
R1 TO 3 BY ADV. SRI.M.A.ANZAR
R5 BY ADV. SRI.JOHN MATHAI,SC, RAILWAYS

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

L.A.A No.371 of 2013

Dated this the 4th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed from the judgment and decree in L.A.R No.110 of 2009 of the Sub Court, North Paravur. The land was acquired for the purpose of construction of Angamaly - Sabarimala Railway line pursuant to Section 4(1) Notification published under the Act on 14.11.2006. The Land Acquisition Officer has awarded the land value at the rate of Rs.1,00,076/- per Are which stands enhanced by the reference court to Rs.3,16,030/- per Are.

2. We heard the learned counsel on both sides. The land value has been refixed by the reference court by relying upon the judgment in L.A.R No.146 of 2009. The compensation has been ordered for injurious affection also. The said judgment has been marked as Ext.A6.

3. In our judgment in L.A.A No.101 of 2012 which is an appeal from the judgment in L.A.R No.146 of 2009, we have

refixed the land value at Rs.2,65,000/- per Are. The category of the property is 7, in both cases.

4. In the light of the above, we allow the appeal and refix the land value at Rs.2,65,000/- per Are in tune with the judgment in L.A.A No.101/2012. The parties will bear their respective costs in the appeal.

It is submitted by the learned counsel for the respondents that a separate application has been filed as I.A.No.617 of 2014 before the reference court for correcting the names of the claimants and to delete the D claimant who is no more. It is upto the trial court to pass appropriate orders on the same.

Sd/-
T.R.RAMACHANDRAN NAIR
Judge

Sd/-
P.VASHA
Judge

rtr/

18.03.2015

The matter is reposted as requested by the learned counsel for the claimants.

Apart from the land value the reference court has granted

5% of the market value for an extent of 14.61 Ares of land as compensation for injurious affection and it is clarified that the claimant herein will be entitled to the said relief at 5% of the market value fixed by this Court at Rs.2,65,000/- per Are and there will be a decree accordingly.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/