

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

LA.App..No. 1468 of 2007 ()

AGAINST THE JUDGMENT IN LAR 6/2003 of IN THE COURT OF THE ADDL.SUB
JUDGE, KOCHI DATED 30-05-2006

APPELLANT/RESPONDENT:

STATE OF KERALA,
REP.BY SPECIAL TAHSILDAR, LA, GCDA
KOCHI.

BY ADVS.ADDL.ADVOCATE GENERAL
GOVERNMENT PLEADER

RESPONDENTS/CLAIMANT/RESPONDENT IN THE LAR:

1. RAJENDRAN, S/O.VALUKUTTY,
KADUMUNDIL, AZHEEKAL P.O.
2. RADHA, W/O.VALUKUTTY,
KADUMUNDIL, AZHEEKAL P.O.
3. RENUKA, D/O.OF VALUKUTTY,
KADUMUNDIL, AZHEEKAL P.O.
4. RAJEEVAN, S/O.VALUKUTTY,
KADUMUNDIL, AZHEEKAL P.O.
5. REMA, D/O.VALUKUTTY,
KADUMUNDIL, AZHEEKAL P.O.
6. GOSHREE ISLANDS DEVELOPMENT AUTHORITY,
PARK AVENUE, KOCHI II., REP.BY ITS SECRETARY
A.P.MOHAMMED HANEESH.

R2 TO 5 BY ADV. SRI.V.JOHN MANI
BY ADV. SRI.T.RAJESH
R6 BY ADV. SRI.VARGHESE K.PAUL

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 29-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.N.RAVINDRAN &
ANU SIVARAMAN, JJ.**
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L.A.A.No.1468 of 2007
= = = = =
Dated this the 29th day of June, 2015

JUDGMENT

Ravindran, J.

This appeal arises from the judgment and decree passed by the Court of the Additional Subordinate Judge of Kochi on 30.05.2006 in LAR No.6 of 2003. Respondents 1 to 5 are the claimants and the sixth respondent is the additional second respondent therein. By the impugned judgment and decree, the reference court awarded land value at the rate of Rs.2,00,000/- per Are as against the sum of Rs.1,35,400/- per Are awarded by the Land Acquisition Officer. The claimants were also held entitled to all statutory benefits.

2. A reading of the impugned judgment discloses that it is relying on the judgment in L.A.R.No.7 of 2003 and connected cases that the reference court enhanced the land value to Rs.2,00,000/- per Are. Challenging the judgment and decree in L.A.R.No.7 of 2003, the State of Kerala has filed L.A.A.No.1078 of 2007. The said appeal came up for final hearing along with L.A.A.No.1817 of 2008 arising from L.A.R.No.23 of 2003 which also related to lands

acquired for very same purpose. Both the appeals were dismissed by this court on 26.08.2009. Such being the situation, no exception can be taken to the impugned judgment and decree.

3. Learned Government Pleader however brought to our notice that the reference court has awarded interest at 9% per annum for a period of one year from 11.09.2002 under section 28(2) of the Land Acquisition Act, 1894 and has awarded interest at 15% per annum from the said date as well. Learned Government Pleader submitted that interest at the rate of 15% per annum can be awarded on the enhanced compensation only from 11.09.2003 and not from 11.09.2002 as granted by the court below. A reading of the impugned judgment discloses that the learned Government Pleader is well founded in the submission made by him that the reference court has awarded interest @ 9% per annum and also @ 15% per annum from the same date. In view of stipulations contained in section 28 of the Land Acquisition Act, 1894, the direction regarding payment of interest will have to be suitably modified. On the terms of section 28 of the Land Acquisition Act, 1894, the claimant will be entitled to interest on the enhanced compensation awarded by the reference court only at the rate of

9% per annum for a period of one year commencing from 11.09.2002 the date of taking possession. The claimants will be entitled to interest @ 15% per annum only on the expiry of the period of one year from the date of taking possession.

In the result, in modification of the decree and judgment passed by the reference court, we direct that the claimants will be entitled to interest on the enhanced compensation at the rate of 9% per annum for a period of one year from 11.09.2002 and @ 15% per annum thereafter. In all other respects, the impugned decree and judgment shall stand. No costs.

sd/-

P.N.Ravindran, Judge

sd/-

Anu Sivaraman, Judge

sj

TRUE COPY

P.A.TO JUDGE