

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

LA.App..No. 417 of 2013 ()

AGAINST THE JUDGMENT IN LAR 35/2009 of SUB COURT, ERNAKULAM DATED
29-10-2010

APPELLANT/CLAIMANT:

E M STEPHEN
S/O.MICHEAL, ELAMTHATTU, KARITHALA
PULLEPPADY, KOCHI-18.

BY ADVS.SRI.VARGHESE K.PAUL
SRI.ANITH JAMES

RESPONDENTS/RESPONDENTS:

1. THE STATE OF KERALA
REPRESENTED BY THE SPECIAL TAHSILDAR (L.A)
KOCHI CORPORATION, VYTTILA, ERNAKULAM DISTRICT
KERALA-682019.

2. CORPORATION OF KOCHI,
PARK AVENUE, ERNAKULAM, REPRESENTED BY ITS SECRETARY
PIN-682011.

R2 BY ADV. SRI.RAAJESH S.SUBRAHMANIAN,SC,COCHIN CO
R1 BY SR. GOVERNMENT PLEADER SRI.R.PADMARAJ

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
12-03-2015 ALONG WITH LAA NO.29/2014, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

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

**L.A.A.Nos.417 OF 2013 &
29 OF 2014**

Dated this the 12th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

These two appeals arise from the judgments and decrees in L.A.R.Nos.35/2009 and 78/2009 of the Sub Court, Ernakulam.

2. The claimants have come up in appeal. At the outset, the learned counsel for the appellants submits that these cases were tried along with certain other land acquisition cases and in one appeal namely appeal from the judgment and decree in L.A.R.No.91/2009 filed as L.A.A.No.313/2012, the matter has been remanded back to the reference court for consideration, by a Division Bench of this Court. It is urged that the same method may be adopted herein also since the document relied upon is Ext.A3, which was not accepted by the reference court and all the reference cases were disposed of together by the reference court.

3. We heard the learned Senior Government Pleader also who submits that the matter can be remanded back as connected cases have already been remanded. We have gone through the judgment in L.A.A.No.313/2012. The acquisition in all these cases was for the purpose of construction of railway over bridge at Pullepady. The notification under Section 4(1) was published on 21.04.2003 and the land acquisition officer awarded land value @ ₹3,20,714/- per Are.

4. After considering the various contentions, the Division Bench in the judgment in L.A.A.No.313/2012 noticed that against the judgment and decree in L.A.R.No.101/2009, there was an appeal as L.A.A.No.393/2001 and in the light of the order of remand therein, the same method can be adopted.

5. In the light of the remand made by this Court in the connected appeals, we also adopt the same pattern and set aside the impugned judgment and the LAR cases are remanded back for consideration afresh by the reference court. All the claims raised will be considered by the reference court afresh and both sides are allowed to adduce evidence also. The court fee paid on the memorandums of

appeals will be refunded to the appellants.

6. L.A.A.No.29/2014 was filed with a petition to condone the delay of 735 days and while passing the order in C.M.Appln.No.37/2014, it was made conditional that the State and the requisitioning authority will not be liable for interest for the above period under Section 28 of the Land Acquisition Act. The said order is reiterated and the appellant will not be entitled for interest for the above period.

7. Today this Court has condoned the delay of 737 days in filing L.A.A.No.417/2013 as per order in C.M.Appln.492/2013 on the condition that the appellant will not be entitled to interest for the period covered by the delay.

It is made clear that in case the land value is enhanced, the appellants will be entitled to all statutory benefits subject to the above direction.

T.R.RAMACHANDRAN NAIR, JUDGE

SV.

P.V.ASHA, JUDGE