

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 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

LA.App..No. 243 of 2009 ()

AGAINST THE JUDGMENT IN LAR 24/2004 OF II ADDITIONAL SUB COURT,THRISSUR
DATED 28-06-2007

APPELLANTS/CLAIMANTS.:

-
1. K.S.GOPI (DIED)
KURIAKKOT HOUSE, PUZHAKKAL.
(LRs IMPEADED)
 2. K.S.VIJAYAN, KURIAKKOT HOUSE, PUZHAKKAL.
 3. K.S.RAVEENDRAN, KURIAKKOT HOUSE, PUZHAKKAL.

LEGAL REPRESENTATIVES OF DECEASED 1ST APPELLANT.

ADDL. APPELLANTS: 4. K.G.SANJAYAN, KURIAKKOT HOUSE, PUZHAKKAL.

5. K.G.LEENA,KURIAKKOT HOUSE, PUZHAKKAL.

6. K.G.SHAJI,KURIAKKOT HOUSE, PUZHAKKAL.

[ADDITIONAL APPELLANTS 4 TO 6 IMPEADED AS THE L.R.'S OF THE DECEASED
1ST APPELLANT VIDE ORDER DATED 26.2.2009 IN I.A.712/2009]

BY ADVS.SRI.S.M.PREM
SMT.K.P.SANTHI

RESPONDENTS/RESPONDENTS.:

-
1. STATE OF KERALA
REPRESENTED BY THE SPECIAL TAHSILDAR, L.A.GENERAL, THRISSUR.
 2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, THRISSUR.
 3. THE DISTRICT COLLECTOR,THRISSUR.

BY SENIOR GOVERNMENT PLEADER SRI. R. PADMARAJ

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

shg/

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

L.A.A.No.243 of 2009

Dated this the 18th day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

This appeal is from the judgment and decree in LAR No.24/2004 of the Sub Court, Thrissur.

2. The land was acquired for the purpose of Industrial Development Plots at Puzhakkal Padom. The notification under Section 4(1) of the Land Acquisition Act was published on 4.10.1999.

3. Going by the averments in paragraph 1 of the appeal memorandum the compensation is awarded at the rate of Rs.3,410/- per are and the reference court has granted, according to the appellant only meagre enhancement.

4. We heard the learned counsel for the appellants and the learned Senior Government Pleader for the

respondents.

5. The judgment under appeal is one disposing of LAR Nos.24/2004 and 56/2004 together. The claimants have examined the C claimant as AW1 and exhibits were marked as A1 to A7. We find from paragraph 11 of the judgment that AW1 has produced Ext.A2 and A3 documents which were claimed to be located near the acquired properties. Those documents were not accepted by the reference court as the documents are not reliable for enhancing the market value of the acquired properties. Even though Ext.A4 document was also produced, but that also was not accepted. Ext.A5 is the certified copy of the judgment in LAR Nos.14/2004 and 64/2004 whereby the market value of the acquired properties in the said cases was enhanced to at the rate Rs.11,111/- per are. After a detailed discussion the reference court found that properties involved therein and acquired properties are not similar. Going by the report of the Commissioner the properties are situated at a distance of 3 k.m. from civil station. After referring to the

document relied upon by the Land Acquisition Officer finally the land value has been fixed at Rs.7,042.35 per are.

6. Our attention is drawn to the judgment of this Court in LAA No.515/2006 and connected cases. Therein also the notification was published on 4.10.1999 and the land value was awarded at the rate of Rs.3,410/- per are. Before this Court the report of the commissioner, noting down the locational importance of the acquired properties was relied upon. Finally in paragraph 14 this court re-fixed the land value at Rs.8,050/- per cent.

7. Since the said judgment is in relation to the properties acquired under the very same notification for the very same purpose it will be just and proper to adopt the land value fixed therein. Even though the claimants herein have claimed at the rate of Rs.12,958/- per cent, to establish the said value, no other reliable evidence there. In that view of the matter, we adopt the value fixed by this court in LAA No.515/2006 and connected cases.

8. Accordingly, the land value for the acquired

property is fixed at Rs.8,050/- per cent. The claimants will be entitled to all the statutory benefits as granted by the reference court.

9. There was a delay of 313 days in filing the appeal and the delay was condoned as per order in C.M.A.No.278/2009 and while condoning the delay this Court made it clear that in the event of the appeal being allowed and the appellant becoming entitled for enhanced compensation, such enhanced compensation will not carry interest at the rate admissible under Section 28 for the said period. We reiterate the same and the grant of statutory benefits will be subject to the above condition.

Accordingly, the appeal is allowed and there will be no order as to costs.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/