

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

LA.App..No. 691 of 2013 ()

AGAINST THE ORDER/JUDGMENT IN LAR 40/2008 of I ADDL.SUB
COURT,TRIVANDRUM DATED 25-02-2010

APPELLANT(S)/CLAIMANT::

MINI.R
AMBILI, TC 3/2397, MARAPPALAM
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.K.M.SATHYANATHA MENON
SMT.KAVERY S THAMPI

RESPONDENT(S)/RESPONDENTS::

1. STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM, PIN: 695 001.
2. THE SECRETARY,
TRIDA, THIRUVANANTHAPURAM - 695 023.

R2 BY ADV. SRI K.A.JALEEL
R2 BY ADV. SRI.K.A.JALEEL, SC., TRIDA
R1 BY SRI.R.PADMARAJ, SENIOR GOVERNMENT PLEADER

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR
ADMISSION ON 07-09-2015 ALONG WITH L.A.A NO.697/2013, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMACHANDRA MENON, J.

&

K.HARILAL, J.

L.A.A.Nos.691 & 697 of 2013

Dated this the 7th day of September, 2015

JUDGMENT

P.R.RAMACHANDRA MENON, J.

Correctness of the judgment and decree dated 25.2.2010 in LAR NO.40/2008 and in LAR No.55/2008 dated 16.3.2010 passed by the Ist Additional Sub Court, Thiruvananthapuram is under challenge in these appeals. In LAA No.691/2013 (pertaining to LAR No.40/2008) an extent of 0.25 Ares of land situated in Kowdiar Village was acquired for widening of the Pattom-Kowdiar road, Thiruvananthapuram. The extent of land involved in the other case i.e LAA No.697/2013 arising from LAR No.55/08 is an extent of 0.4 Ares. In both the cases, the Land Acquisition Officer awarded the land value @ ₹1,77,840/- per Are. On make a reference under section 18

of the Land Acquisition Act, the Reference Court enhanced the land value to Rs.4,37,500/- per Are, which according to the appellants is abysmally on the lower side and sought to be enhanced by filing these appeals.

2. Heard the learned counsel appearing for the appellants as well as the learned Senior Government Pleader appearing on behalf of the State. During the course of hearing, it is brought to the notice of this Court that some of the properties as per the very same notification under section 4(1) published on 30.10.2004 was the subject matter of consideration in LAA No.1063/2012 and 1108/2010 . In respect of those properties, the land value fixed by the Awarding Officer was @ ₹2,13,408 per Are. The Reference Court enhanced the said land value to ₹30,00,000/- (Rupees thirty lakhs only) per Are and on appeal preferred by the State it was brought down to ₹22,00,000/-(Rupees twenty two lakhs only) and the matter has become final accordingly. It is stated that the same course can be pursued in the instant case as well, as putforth by the learned counsel for the appellants, referring

to the very same potential value of the property involved. The learned Government Pleader also points out that the categorisation is entirely different and the property considered before this Court in LAA No.1063/2012 and 1108/2010 was situated on a higher pedestal, as evident from the higher land value fixed by the Awarding Officer himself . After hearing both the sides, this Court finds that there was no dispute from the part of the appellant as to the categorisation of land in question and that adequacy of compensation can be considered with reference to the respective categorisation given by the Awarding Officer. Admittedly, the land categorized having a value of ₹2,13,408/- per Are fixed by the Awarding Officer stands enhanced to ₹22 lakhs by virtue of the verdict dated 31.1.2011 passed by this Court in LAA Nos.1063/12 & 1108/2010. Since the properties involved in these appeals are also under the same notification, though of a different category, proportionate enhancement has to be made and given in these cases as well. It has to be worked out as given below:

$22,00,000 / 2,13,408 \times 1,77,840 = 18,33,333$ per Are.

3. In the above circumstances, this Court declares that the appellants herein are entitled to have enhanced compensation in respect of the land acquired from them @ ₹22 lakhs per Are and they are also eligible for all the statutory benefits except interest to the extent it is covered by the interim order dated 22.9.2014

4. To have clarity in the matter, it cannot but be noted that the appeals so preferred much belatedly as in the case of LAA 691/2013, there was a delay of 1005 days in filing the appeal, which was sought to be condoned by filing CMA 859/2013. In the other case i.e, LAA 697/2013, the delay involved was 872 days. The delay as above was condoned as per separate orders dated 22.9.2014 and 20.09.2014 respectively; subject to payment as cost of ₹5,000/- and ₹4,000/- respectively, which is stated as satisfied. As per the very same order it was also made clear by the Court that, in the event of the appeal being allowed enhancing the compensation, the appellants will not be entitled to claim interest for the period of delay . In the

LAA Nos.691 & 697/2013

above circumstances, we make it clear that the statutory payment i.e, the payment of interest will stand governed by the said order and interest will not be paid in respect of the period covered by the delay.

The appeals stand disposed of as above.

P.R.RAMACHANDRA MENON, JUDGE

K.HARILAL, JUDGE

sks

The figure and the words “₹22 lakhs per Are” occurring in the 4th line of paragraph No.3 at page 4 of the common judgment dated 7.9.2015 in L.A.A.Nos.691 & 697/2013 are corrected and substituted as ₹18,33,333/- per Are” vide order dated 16.12.2015 in I.A.No1267/2015 in L.A.A.No.691/2013 and I.A.No.1232/2015 in L.A.A.No.697/2013.

sd/-

Registrar (Judicial)