

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

LA.App..No. 816 of 2013 ()

AGAINST THE JUDGMENT AND DECREE IN LAR 144/2005 of I ADDL.SUB
COURT,TRIVANDRUM DATED 20-03-2009

APPELLANT(S)/CLAIMANTS:

1. ELAINE ARCHIBALD
TC 27/415, ETHALAM, GENERAL HOSPITAL ROAD
THIRUVANANTHAPURAM.

2. ENID L.CHRISTIAN,
TC 27/415, ETHALAM, GENEAL HOSPITAL ROAD
THIRUVANANTHAPURAM
REPRESENTED BY HER POWER OF ATTORNEY HOLDER ELAINE ARCHIBALD
FIRST APPELLANT-695 035.

BY ADVS.SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.
SRI.GOVIND PADMANAABHAN

RESPONDENT(S)/RESPONDENTS::

1. STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM - 695 015.

2. THE SECRETARY,
TRIDA, THIRUVANANTHAPURAM - 695 001.

R2 BY ADV. SRI.K.A.JALEEL, SC., TRIDA
R1 BY GOVERNMENT PLEADER SMT.REZIA

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

L.A.A No.816 of 2013

Dated this the 2nd day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed aggrieved by the judgment and decree in L.A.R No.144 of 2005 of the Ist Additional Sub Court, Thiruvananthapuram. The claimant has come up in appeal. The land acquired is having an extent of 2.95 Ares in Survey Nos.2731/2 and 2731/3 of Vanchiyoor Village and it was acquired for widening Palayam-Pattoor road. Notification under Section 4(1) of the Act was published on 28.11.2003 and the Land Acquisition Officer awarded the land value at Rs.2,71,107.20 per Are. The reference court even though granted enhancement, according to the learned counsel for the claimant in the light of the judgment in L.A.A No.133 of 2010, the claimant is also entitled to get the land value of Rs.17 lakhs per Are for the property acquired.

2. We heard the learned Senior Government Pleader for the respondents. We have gone through the judgment in L.A.A No.133 of 2010 wherein Section 4(1) notification was published on 28.11.2003; the Land Acquisition Officer awarded the land value at the same rate as in this case (ie.Rs.2,71,107.20 per Are) which was enhanced to Rs.15 lakhs by the reference court, and this Court finally refixed the land value at Rs.17 lakhs per Are.

Hence we are also of the view that the same amount can be adopted in this case also since the property was acquired for the same purpose and is situated nearby the properties acquired in L.A.A No.133 of 2010 also.

3. This appeal is accordingly allowed refixing the value of the land @ Rs.17 lakhs per Are. The claimants will also be entitled to all the statutory benefits as granted by the reference court.

The appeal was filed with a petition for condoning the delay in filing the appeal and by the order dated 2.2.2015 in C.M.Appl.No.1023/2013, the delay was condoned and it was made clear therein that for the period covered by the delay, namely, 1614 days, the State will not be liable for payment of cost under Section 28 of the Land Acquisition Act. We reiterate the same. The appellant will be entitled to proportionate costs in this appeal.

Sd/-
T.R.RAMACHANDRAN NAIR
Judge

Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge