

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

LA.App..No. 821 of 2013 ()

**AGAINST THE JUDGMENT IN LAR 280/2009 OF II ADDL.SUB
COURT,THIRUVANANTHAPURAM DATED 28-02-2013**

APPELLANT/RESPONDENT IN L.A.R.:

**STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM.**

BY SENIOR GOVERNMENT PLEADER SRI. R. PADMARAJ

RESPONDENTS/CLAIMANTS IN L.A.R.:

- 1. AJAYAKUMAR
MAITANVILLA, HINDU MISSION ROAD, PUTHEN CHANTHAI
THIRUVANANTHAPURAM - 690 501.**
- 2. SAHADEVAN,
S/O. PAPUKUTTY, T.C.22/995, KUNCHU VEEDU
ATTUKAL, MANACAUD - 695 009.**
- 3. PADMAKUMAR,
S/O. SUBHAIYYA PILLAI (REP. BY THE POWER
OF ATTORNEY HOLDER HIS WIFE
SARASWATHY) - 695 009.**
- 4. SARASWATHY
D/O. OMANA, T.C. 42/170, KARTHIKA
MANACAUD - 695 009.**

**R1 BY ADV. SRI.SANTHAN V.NAIR
SRI.V.V.MITHUN
SRI.C.SREEJITH (ELAMAKKARA)
R2-R4 BY ADV. SRI.J.HARIKUMAR**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
29-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SHG/

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

L.A.A.No.821 of 2013

Dated this the 29th day of July, 2015

J U D G M E N T

Ramachandran Nair, J.

This appeal is filed by the State aggrieved by the judgment in LAR No.280/2009 on the file of the II Additional Sub Court, Thiruvananthapuram.

2. The learned Senior Government Pleader invited our attention to the fact that even though the reference court relied upon the judgment in LAR No.46/2002 and the land value therein viz. Rs.6,91,600/- per are for fixing the market value for the acquired property herein at Rs.8,99,080/- per are, in appeal from the said judgment in LAR No.46/2002 this Court re-fixed the land value at the rate of Rs.2,20,000/- per are. It is also submitted that appropriate deductions will have to be made with respect to the land value fixed in respect of the acquired property herein.

3. For the consideration of the said argument, we will refer to the facts. The property in question was acquired for the purpose of construction of a bridge across Killi River near the famous Attukal Temple. The notification under Section 4(1) was published on 31.03.2005 and as far as the acquired property herein is concerned it was included in 'E' category. The Land Acquisition Officer fixed the land value at the rate of Rs.46,296/- per are.

4. We find from the judgment that the only evidence relied upon by the reference court is Ext.A1 judgement. No other evidence was there.

5. The learned Senior Government Pleader invited our attention to the fact that as far as the property involved in LAR No.46/2002 (Ext.A1) is concerned, the Land Acquisition Officer has fixed the land value at the rate of Rs.1,60,229/- per are and the notification under Section 4(1) was published on 28.12.1998. It is submitted that in comparison to the land acquired therein, going by the land value fixed herein viz. Rs.46,296/- per are it can be seen

that the property acquired was only having lesser importance and potential.

6. These contentions have been refuted by the learned counsel appearing for the respondents Sri. J. Harikumar. It is submitted that the properties are lying very close to the Attukal Temple viz. adjacent to the parking ground. It is further submitted that these details are available in the mahazar and learned counsel therefore submitted that the property is having much potential and importance and it could be used for commercial purposes also.

7. We have gone through the award also. Various aspects are clear from the award of the Land Acquisition Officer also.

8. In view of the re-fixation of the land value by this court in LAA No.1263/2009, it would require proper consideration by the reference court. Since there are no other materials, the only option for this Court is to send back the matter again for fresh consideration by the

reference court. Accordingly, the judgment is set aside and the case is remanded for consideration afresh by the reference court and both sides are allowed to adduce fresh evidence there.

There will be no order as to costs in this appeal.

Sd/-
T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/