

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

LA.App..No. 14 of 2008 (C)

AGAINST THE ORDER/JUDGMENT IN LAR 224/1997 of II ADDL.SUB
COURT,TRIVANDRUM DATED 29-06-2007

APPELLANT(S)/CLAIMANTS 3,4,5 AND 10::

1. THOMAS MARTIN, MARTIN DALE,
NEAR EXCISE OFFICE, KAZHAKKOOTTAM, THIRUVANANTHAPURAM.
(DECEASED).

2. GETRUDE DANIEL MARTIN, MARTIN DALE,
NEAR EXCISE OFFICE, KAZHAKKOOTTAM, THIRUVANANTHAPURAM.

3. AGNES VARGHESE MARTIN, MARTIN DALE,
NEAR EXCISE OFFICE, KAZHAKKOOTTAM, THIRUVANANTHAPURAM.

4. JEEFRAY MARTIN, THARE, T.C.41/1218,
KALLIYIL LANE, MANACAUD, THIRUVANANTHAPURAM,
NOW AT 2,GARRICK CLOSE, EALING, LONDON W5 IAS.

ADDL. 5. PHILOMINA THOMAS,
AGED 57 YEARS, W/O.LATE THOMAS MARTIN,
MARTIN DALE,
VADAVATHOOR P.O,
KOTTAYAM - 686 010.
NOW RESIDING AT VADAKKAL HOUSE,
CHOONDANCHERRY P.O,
BHARANANGANAM, PALA.

(ADDITIONAL 5TH APPELLANT IS IMPLEADED AS LEGAL
REPRESENTATIVE OF THE DECEASED 1ST APPELLANT VIDE ORDER IN
I.A.330/2015 DATED 9.3.15.)

BY ADVS.SRI.K.K.CHANDRAN PILLAI
SRI.A.S.SAJUSH PAUL
SMT.K.V.SHENU
SMT.S.AMBILY
SRI.ARUN ANTONY

RESPONDENT(S)/CLAIMANTS 1,6,7,8,9,12,13::

1. SUSHI MARTIN, D/O. P.C.MARTIN,
PLOT NO.106, GLDA COLONY, INDIRA NAGAR
COCHIN.

2. GLADIS JAMES, MARTIN DALE,
VALLAKADAVU, VALIATHOPPU, THIRUVANANTHAPURAM.

3. MONA DORIS @ GIRBY JOSEPH, PUTHEN
VEETIL, NO.49, KALPAKA NAGAR
CHACKAI, THIRUVANANTHAPURAM.

4. TRESSA MARTIN @ TRESA MARKOSE,
C-35/1248, VARTHUVELIL HOUSE, ST.MARTIN ROAD
PALARIVATTOM, KOCHI-682025.

5. HEERA, D/O.LATE SELINE.C.FERNANDEZ,
KOCHU VEEDU, T.C 41/1773, MANACAUD
THIRUVANANTHAPURAM.

6. ANTONY GILBERT MARTIN,
S/O.LATE PETER CICELY MARTIN @ MARTIN FERNANDEZ
8 ACKNOWLEDGE LAND PLACE, RICHARDAN ACT 2905, CANBERNA
AUSTRALIA.

R,R2 BY ADV. SRI.M.BALAGOVINDAN
R,R2 BY ADV. SRI.M.R.SASITH
R,R1 BY ADV. SMT.M.HEMALATHA
R3, R4 BY ADV. SRI.R.RAMADAS
BY ADV. SRI.K.B.PRADEEP (MEDIATOR)
R6,PARTY-IN-PERSON BY ADV. SRI.ANTHONY GILBERT MARTIN
R5 BY ADV. SRI.PREMJIT NAGENDRAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

L.A.A No.14 of 2008

Dated this the 1st day of April, 2015

JUDGMENT

Ramachandran Nair, J.

The appeal is from the judgment and decree in L.A.R No.224/1997 of the Subordinate Judge's Court, Thiruvananthapuram, which was on a reference under Section 31(2) of the Act.

2. We heard the learned Senior Counsel for the appellants and the learned counsel for some of the respondents. I.A.No.556 of 2008 is one for impleading, filed by the petitioner therein who was not a party.

3. At the outset it is submitted by the learned Senior Counsel for the appellants that the reference under Section 18 of the Land Acquisition Act was in L.A.R No.223 of 1997. The Reference Court had fixed enhanced compensation against which L.A.A No.163 of 2008 and connected appeals were filed and they have been disposed of by a Division Bench of this Court on 23.02.2012. This Court set aside the judgments and remanded the matter for fresh consideration vide as per para.5 of the judgment, which we reproduce below:

“5. As indicated, for the various reasons stated by this Court in the judgment in LAA No.1162 of 2008, the judgments and decrees impugned in these appeals warrant interference. We set aside the impugned judgments and decrees and remand LAR Nos.223 of 1997, 59 of 1998, 129 of 1997, 131 of 1997, 130 of 1997, 132 of 1997, 134 of 1997 to the subordinate judges Court, Thiruvananthapuram. The learned Sub Judge is directed to pass a revised award after affording an opportunity to all parties, claimant State and the requisitioning authority to adduce further evidence in support of their rival contentions. Revised award will be passed on the basis of the evidence already on record and evidence which comes on record. If application for impleadment of legal heirs of any of the claimants is received by the learned subordinate judge, the learned subordinate judge will pass orders on those applications without delay, in accordance with law. The learned subordinate judge will expedite matters and will pass revised award as early as possible and at any rate within three months of the court reopening after mid-summer vacation.”

4. Heard both sides. As far as the appellants herein are concerned, mainly the plea is against the allotment of share to additional claimants 12 and 13 who claimed under deceased 11th claimant. As far as the impleading petitioner in I.A.No.556 of 2008 is concerned, the said party was not before the reference court when the judgment was rendered.

5. In the light of the judgment in the connected appeals as noted already, we set aside the judgment herein and send back the matter for fresh consideration. We also direct the Registry to send I.A.No.556 of 2008 also for consideration by the

reference court itself. It is open to the petitioner therein to file a fresh application before the court below. With regard to the submission of the learned Senior Counsel for the appellants that there are certain other objections in the matter which have also been raised in the appeal, we hold that all the objections in the appeal can be considered by the reference court.

The court fee paid on the Memorandum of Appeal will be refunded to the appellants. It is pointed out that the connected land acquisition references, which the Court has already remanded for fresh consideration, are pending in view of the pendency of this appeal. The reference court will give due priority for disposal of these matters along with the references under Section 18 of the Act and all the matters will be disposed of within six months from the date of receipt of a copy of this judgment.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge