

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 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

LA.App..No. 117 of 2008 (D)

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AGAINST THE JUDGMENT IN LAR 245/2003 OF SUB COURT, KOYILANDY DATED
08-06-2007**

APPELLANT/CLAIMANT A IN LAR::

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* RANDAMKOTTU KRISHNAN NAIR, RESIDING
AT CHETTIARAMBATH, KURUVANGAD, PANTHALAYANI
VILLAGE [DIED]**

ADDITIONAL APPELLANTS 2 TO 7 IMPEADED:

**ADDL. APPELLANT 2. DEVAKI AMMA, W/O. LATE KRISHNAN NAIR, AGED 75 YEARS,
"CHETTIARAMBATH", PANTHALAYANI VILLAGE, KURUVANGAD
AMSOM, DESOM, KOYILANDY TALUK**

**ADDL. APPELLANT 3. SULOCHANA R.K., D/O. LATE KRISHNAN NAIR, AGED 57 YEARS,
"CHETTIARAMBATH", PANTHALAYANI VILLAGE, KURUVANGAD
AMSOM, DESOM, KOYILANDY TALUK**

**ADDL. APPELLANT 4. RAJAN R.K., S/O. LATE KRISHNAN NAIR, AGED 53 YEARS,
"CHETTIARAMBATH", PANTHALAYANI VILLAGE, KURUVANGAD
AMSOM, DESOM, KOYILANDY TALUK**

**ADDL. APPELLANT 5. PRASANNA R.K., D/O. LATE KRISHNAN NAIR, AGED 51 YEARS,
"CHETTIARAMBATH", PANTHALAYANI VILLAGE, KURUVANGAD
AMSOM, DESOM, KOYILANDY TALUK**

**ADDL. APPELLANT 6. SREENIVASAN R.K., D/O. LATE KRISHNAN NAIR, AGED 48 YEARS,
"CHETTIARAMBATH", PANTHALAYANI VILLAGE, KURUVANGAD
AMSOM, DESOM, KOYILANDY TALUK**

**ADDL. APPELLANT 7. MANOJ KUMAR R.K., S/O. LATE KRISHNAN NAIR, AGED 46 YEARS,
"CHETTIARAMBATH", PANTHALAYANI VILLAGE, KURUVANGAD
AMSOM, DESOM, KOYILANDY TALUK**

**[LEGAL REPRESENTATIVES OF THE DECEASED SOLE APPELLANT ARE
IMPEADED AS ADDITIONAL APPELLANTS 2 TO 7 VIDE ORDER DATED 6.7.2015 IN
I.A.719/2015]**

**BY ADVS.SRI.N.L.KRISHNAMOORTHY
SRI.K.LAKSHMINARAYANAN
SMT.SATHYA SHREEPRIYA**

RESPONDENTS/RESPONDENTS 1 AND 2 AND CLAIMANT B IN LAR:

1. DISTRICT COLLECTOR, KOZHIKODE.

**2. EXECUTIVE ENGINEER, P.W.D,
ROADS DIVISION, KOZHIKODE.**

**3. KORATTIKUNNUMMAL VAMADEVAN NAIR,
S/O.RAMAN NAIR, KURUVANGAD, PANTHALAYANI VILLAGE.**

ADDITIONAL RESPONDENTS 4 TO 7 IMPEADED:

**ADDL. R4. KAMALA, LATE W/O. VAMADEVAN NAIR, KORATTIKUNNUMMAL
KURUVANGAD AMSOM, DESOM, KOYILANDY TALUK, KOZHIKODE DISTRICT**

**ADDL. R5.BINEESAN, LATE S/O. VAMADEVAN NAIR,
KORATTIKUNNUMMAL
KURUVANGAD AMSOM, DESOM, KOYILANDY TALUK, KOZHIKODE DISTRICT**

**ADDL.R6.BIJU, LATE S/O. VAMADEVAN NAIR,
KORATTIKUNNUMMAL, KURUVANGAD AMSOM, DESOM, KOYILANDY TALUK,
KOZHIKODE DISTRICT**

**ADDL.R7.BINDU, LATE D/O. VAMADEVAN NAIR,
KORATTIKUNNUMMAL
KURUVANGAD AMSOM, DESOM, KOYILANDY TALUK, KOZHIKODE DISTRICT**

**[ADDITIONAL RESPONDENTS 4 TO 7 ARE IMPEADED VIDE ORDER DATED
14.7.2010 IN IA 1201/2009]**

**R.1,2 BY SENIOR GOVERNMENT PLEADER SRI. ALOYSIUS THOMAS
R3 BY ADVS. SRI.K.P.BALASUBRAMANYAN
SRI.NIRMAL. S**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

LA.App..No. 117 of 2008 (D)

APPENDIX

APPELLANTS' ANNEXURES:

**ANNEXURE A. COPY OF THE JOINT STATEMENT ENTERED BETWEEN THE PARTIES
BEFORE THE LOK ADALAT, KOYILANDY DATED 4.8.2012.**

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A. TO JUDGE

SHG/

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

L.A.A.No.117 of 2008

Dated this the 6th day of August, 2015

J U D G M E N T

Ramachandran Nair, J.

This appeal is from the judgment in LAR No.245/2003 on the file of the Subordinate Judge's Court, Koyilandy.

2. We find from the judgment that three Land Acquisition Reference cases were tried together by the reference court. But ultimately no amount was granted on the finding that since there are different claims the parties will have to agitate their claims over the property before the civil court and obtain a decree regarding their right over the property.

3. We are also informed that LAR No.229/2003 is in respect of the same item of land where the claimant was the brother of the appellant herein. In LAR 255/2003 the dispute was regarding apportionment. As against LAR

No.255/2003 the appellant herein had approached this Court by filing LAA 561/2008 which has been disposed of by judgment dated 13.6.2013.

4. At the outset Sri. K. Lakshminarayanan submitted that the inter se disputes between the parties have been settled and the award passed by the Lok Adalat held at Koyilandy has been produced as Annexure A along with I.A.1270/2012.

5. O.S.No.288/1998 was considered by the Adalat and it was settled as per the joint statement. Going by the terms of the joint statement the claimant herein is entitled for the enhanced land value as far as the item of property herein is concerned. Therefore, we proceed to consider the claim regarding enhancement of compensation of land value.

6. The extent of the property involved is 0.043 hectares of land in RS.90/14 of Kuruvangad desom of Panthalayani Village. It was acquired by the Land Acquisition Officer for the construction of Anelakadavu

bridge and approach road and the notification under Section 4(1) was published on 23.11.2000. The land value was fixed by the Land Acquisition Officer at the rate of Rs.5,173/- per cent and the claim is at the rate of Rs.40,000/- per cent.

7. We heard learned counsel for the appellants and the learned Senior Government Pleader Sri. L. Aloysius Thomas.

8. Land value has not been fixed by the reference court even though evidence was adduced by both sides. But the learned counsel for the appellants submitted that in the connected appeal LAA 531/2006 arising from same acquisition i.e. LAR 249/2003 this Court by judgment dated 1.8.2013 has re-fixed the market value of garden land with road access as Rs.12,000/- per cent and without road access Rs.10,000/- per cent. As far as the acquired property herein is concerned it was not having road access.

9. Since the judgment is from the same acquisition of an adjoining property same can be safely relied upon.

Therefore, we fix the land value for the acquired property at Rs.10,000/- per cent.

10. One of the other points raised by the learned counsel is the claim for injurious affection for the remaining item of property in possession of the claimant i.e. 1.5 cents in extent approximately.

11. Our attention was invited to Ext.X3 report of the Commissioner and the plan attached to the same. Going by the plan attached to the report the property is shown as Ext.A1 Q1 and the side measurements are also provided. It is seen that the property going by the calculation will be having an extent of 1.65 cents.

12. The learned Senior Government Pleader submitted that as of now the claimants are getting access by the road and therefore there will not be much in the claim for injurious affection.

13. Learned counsel for the claimants submitted that property has been rendered useless as it is in a corner and there is no regular shape also. Going by the report of the

Commissioner in paragraph 9 it is seen that there is height difference between the road and the property.

14. We therefore find that the claimants will be entitled for compensation for injurious affection also for this extent of land. We fix it at 40% of the amount awarded viz. 40% Rs.10,000/- for the said extent of 1.65 cents as the compensation for injurious affection.

15. LAA 561/2008 from LAR 255/2003 was also disposed of by this Court by judgment dated 13.6.2013 by recording the compromise in the Lok Adalat. It is clear that the parties would be governed by the terms and conditions in the settlement agreement before the Lok Adalath. Accordingly, the appeal is allowed. Market value for the acquired land is fixed at Rs.10,000/- per cent and 40% of the same is awarded as compensation for injurious affection to an extent of 1.65 cents of land which is rendered as useless.

16. The claimants will be entitled for the benefits under Section 23(IA) and Section 28 of the Land Acquisition

Act. As far as the compensation granted for injurious affection is concerned, the claimants will not be entitled for the benefit under Section 23(IA) and 23 (2).

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

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/