

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 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

LA.App..No. 403 of 2014 ()

AGAINST THE JUDGMENT AND DECREE IN LAR 194/2000 ON THE FILE OF THE
II ADDITIONAL SUB COURT, THIRUVANANTHAPURAM DATED 29-06-2007

APPELLANT/CLAIMANT:

NAGAPPAN NAIR, AGED 60
S/O. CHELLAPPAN PILLAI, TC 36/266-2, MANAVA NAGAR
PERUTHANNI, PETTA P.O., THIRUVANANTHAPURAM-24.

BY ADV. SMT.P.N.SUMANGALA

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR
THIRUVANANTHAPURAM-695001.

2. THE MANAGING DIRECTOR
THIRUVANANTHAPURAM INTERNATIONAL AIRPORT DEVELOPMENT SOCIETY
POST BOX NO. 5424, VIKAS BHAVAN P.O., MUSCAT SQUARE
THIRUVANANTHAPURAM-695001.

R1 BY SR. GOVERNMENT PLEADER SRI.R.PADMARAJ

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
08-04-2015, ALONG WITH LAA. 416/2014, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

AL/-

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

L.A.A. Nos.403 of 2014 & 416 of 2014

Dated this the 8th day of April 2015

JUDGMENT

Ramachandran Nair , J.,

These two appeals have been filed by the respective claimants aggrieved by the judgments and decrees in L.A.R.Nos. 193/2000 & 194/2000 on the file of the IInd Additional Sub Court, Thiruvananthapuram.

2. L.A.A. 403/2014 is from the judgment in L.A.R.No.193/2000. An extent of 01.45 Ares of land comprised in Sy. No. 426/6 of Pettah Village, Thiruvananthapuram Taluk was acquired along with the buildings situated therein, for the purpose of New International Passenger Terminal at Chakkai, Thiruvananthapuram. Going by the statement of facts of the judgment, the notification under Section 4(1) of the Act is published on 11.12.1998. The Land Acquisition Officer fixed the land value at the rate of Rs. 62,929/- per Are and the reference court has enhanced the same to Rs. 1 lakh per are. The land

value claimed in the appeal is Rs.1 lakh per cent.

3. The facts in L.A.A.No. 416/2014 are also similar. There the extent of land is 02.05 Ares . The contentions are the same.

4. We heard both sides.

5. Learned Senior Government Pleader Sri. Padmaraj submitted that the properties were included in category No. 8 and going by various judgments of this Court, the land value has been fixed at Rs. 1 lakh per Are. He relied upon the judgment in L.A.A. No. 1249/09 and connected cases.

6. Learned counsel for the appellant Smt. Sumangala submitted that, the appellant had a case that the categorisation of the properties was wrongly done by the Land Acquisition Officer. Instead of including them in category No.1, the properties have been included in category No.8. It is submitted that the properties are situated adjacent to the National Highway to Kovalam. Therefore, the access to the National Highway is important which will give more potential to the properties concerned as far as the fixation of proper land value is concerned. It is also submitted that, the date of publication of

notification under Section 4(1) of the Act is not on 11.12.1998 but actually on 4.2.1999 which is a crucial aspect. Learned counsel submitted that even though, these contentions were raised, none of them have been considered by the reference court and there is no discussion on these aspects.

7. We have gone through the judgment of the reference court in both cases. The reference court has practically gone by the categorisation adopted by the Land Acquisition Officer and finally, the land value has been fixed accordingly. Since the appellants are seeking a remand of the matter, to adduce evidence regarding these aspects viz., with regard to the notification under Section 4(1) of the Act and as regards the alleged wrong categorisation of the properties and also with regard to the market value of the acquired property at the time of publication of Section 4(1) notification, we grant permission for the appellants to adduce evidence in these matters. Accordingly, we set aside the judgments and remand the matter for fresh consideration. Both sides are allowed to adduce evidence on all aspects. The court fee paid on the

L.A.A. Nos.403 of 2014 & 416 of 2014

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memorandums of appeals will be refunded to the respective appellants. Even though, learned counsel for the appellant relied upon various judgments of this Court including the judgment in L.A.A. 327/02, to claim enhanced land value we are not finally pronouncing anything on the issues, since the entire aspects will have to be considered by the reference court itself.

Parties will suffer their costs in these appeals.

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

**P.V.ASHA
(JUDGE)**

AL/-