

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 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

LA.App..No. 723 of 2014 ()

AGAINST THE JUDGMENT AND DECREE IN LAR 14/2000 ON THE FILE OF THE
SUB COURT, MANJERI DATED 30-11-2013

APPELLANT/RESPONDENT IN LAR:

THE DISTRICT COLLECTOR
MALAPPURAM

BY SR. GOVERNMENT PLEADER SRI.R.PADMARAJ

RESPONDENT/CLAIMANT IN LAR:

V.A.TONY
S/O.ANTHONY, C/O.EXPO AUTOMOBILES
PERINTHALMANNA 679 322

R1 BY ADV. SRI.R.RAJESH KORMATH
R1 BY ADV. SRI.M.VIJAYAKUMARAN

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION
ON 16-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AL/-

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

L.A.A. No.723 of 2014

Dated this the 16th day of February 2015

JUDGMENT

Ramachandran Nair, J.,

This appeal is filed from the judgment in L.A.R. No.14/2000 on the file of the Sub court, Manjeri.

2. The extent of property involved in 7.87 Ares (equivalent to 19.447 cent) in Survey No. 20/8 of Perinthalmanna village. The purpose of acquisition was for the construction of Perinthalmanna-Mannathummangalam-Kakkooth Bye pass IIInd reach. The date of Section 4(1) notification was on 8.4.1997. The Land Acquisition Officer categorised the entire property under acquisition as A to E category and included the property involved in this case in 'D' category and awarded land value of Rs. 19,500/- per Are. The contention raised herein is that the land value granted by the reference court enhancing it to Rs. 26,400/- per cent is not justified. Therefore, substantial contention is one relating to categorisation of property as 'A' . This is the ground taken in ground 'A' of the appeal also.

3. Heard both sides. Learned counsel for the respondent submitted that the respondent had filed L.A.A. No. 1094/08 which was disposed of on 23.9.2009 by a Division Bench of this Court.

In paragraph 5 of the judgment, the Division Bench held that categorisation maintained by the Land Acquisition officer should have been maintained by the court below. Accordingly, this Court refixed the land value for category 'A' property at the rate of Rs. 33,000/- per cent and for category 'B' property at the rate of Rs. 29,700/-per cent and for category 'C' property at the rate of Rs. 22730/- per cent. Therefore, L.A.A.1094/2008 was allowed by way of remand. We reproduce the following part of the judgment which will make clear the directions of the remand.

" It is open to the claimants to adduce evidence and prove that the entire property under acquisition included these appeals was being enjoyed by the claimants as single holding and hence eligible to be treated in category-A or make other suitable amendment in the judgment conferring the benefits on the compact land A&D categories included in the appeals and treat the entire property as category-A entitle to uniform rate of Rs. 33,000/- per cent as found by this Hon'ble High Court in the connected L.A.A. No. 1110/07."

4. In I.A. No.1705/11 which was ordered on 19.3.2013, this Court allowed the application for correction of the judgment. Petitions have been allowed by the Division Bench as evident from paragraph 3 of the order which we reproduce herein below:-

"These I.As are allowed as prayed for except to the extent of prayer to enter a finding that the property of the claimant under acquisition was being included in category-A. The

issue as to the category in which the property under acquisition fell will be decided by the reference court on the basis of the evidence adduced by the parties.”

5. After remand, the trial court has passed fresh judgment and it is under challenge in appeal wherein the acquired property is categorised as category A. It is submitted by the learned counsel for the respondent that the order passed in I.A No.1705/2011 has not been considered while filing the appeal.

We heard the learned Senior Government Pleader for the appellant. It is submitted that the order in I.A.1705/2011 has been noticed now. In that view of the matter, we find no ground to admit the appeal and hence, the appeal is dismissed.

Sd/-

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

Sd/-

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

AL/-

True copy

P.A to Judge