

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN**

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

LA.App.No. 885 of 2014 ()

**AGAINST THE ORDER/JUDGMENT IN LAR 275/2009 of II ADDL.SUB COURT,TRIVANDRUM
DATED 31-07-2013**

APPELLANTS/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM.**
 - 2. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT, (ROADS DIVISION)
THIRUVANANTHAPURAM.**
- BY SR. GOVERNMENT PLEADER SRI.R.PADMARAJ.**

RESPONDENTS/CLAIMANTS:

- 1. DHARMAJA KUMARI,
SANKARAMANDIRAM, PANAVIDA DESOM,
KOLLAMCODE, PIN-678 506, TRIVANDRUM.**
- 2. PREETHY,
SANKARAMANDIRAM, PANAVIDA DESOM,
KOLLAMCODE, PIN-678 506, TRIVANDRUM.**
- 3. PRIYA,
SANKARAMANDIRAM, PANAVIDA DESOM,
KOLLAMCODE, PIN-678 506, TRIVANDRUM.**
- 4. ASHOK SANKAR,
SANKARAMANDIRAM, PANAVIDA DESOM,
KOLLAMCODE, PIN-678 506, TRIVANDRUM.**

R1-R4 BY ADV. SRI.J.HARIKUMAR

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

vpv

P.N.RAVINDRAN & ANU SIVARAMAN, JJ.
=====

L.A.A.No.885 of 2014
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Dated this the 17th day of August, 2015

JUDGMENT

P.N.Ravindran, J.

A parcel of land, 2.40 Ares in extent, situate in R.S.No.1592/7 of Manacaud Village, Thiruvananthapuram Taluk, Thiruvananthapuram District was acquired pursuant to a notification dated 31.3.2005 issued under section 4(1) of the Land Acquisition Act, 1894 for the purpose of constructing a bridge across the Killi river near Attukal temple. By award passed on 28.1.2008, the Land Acquisition Officer awarded land value at the rate of Rs.1,32,438/- per Are. Possession of the acquired land was thereafter taken on 11.2.2008. Dissatisfied with the land value awarded by the Land Acquisition Officer, the respondents/claimants received the land value awarded by the Land Acquisition Officer under protest and sought a reference of the dispute to the competent civil court. A reference was accordingly made to the Court of the IInd Additional Subordinate Judge of Thiruvananthapuram, where it was taken on file and numbered as L.A.R.No.275 of 2009. Before the reference court, the respondents/claimants claimed land value at the rate of Rs.50,00,000/- per cent. They also prayed for award of the sum of Rs.50,000/- towards value of improvements. Before the

reference court, no evidence, oral or documentary, was adduced on the side of the claimants. On the side of the respondents, though no oral evidence was adduced, Ext.R1 mahazar, Ext.R2 sketch, Ext.R3 valuation statement and Ext.R4 note to award were produced. By a cryptic judgment delivered on 31.7.2013, the reference court enhanced the land value to Rs.12,58,712/- per Are. The appellants have aggrieved thereby filed this appeal.

2. When this appeal came up for consideration before us today, learned counsel appearing on both sides submitted that the awards passed by the reference court in respect of other lands acquired for the very same purpose, were the subject matter of L.A.A.No.337 of 2014 (appeal by the claimants), L.A.A.No.795 of 2014 (appeal by the State) and L.A.A.No.875 of 2014 (appeal by the State), that the lands involved in the said cases were treated as lands in the A category, that by judgment delivered on 29.7.2015, a Division Bench of this court has set aside the awards passed by the reference court and remanded the cases to the reference court for de novo disposal after giving an opportunity to both sides to adduce evidence in support of their rival contentions and therefore, the award in the instant case may also be set aside and the land acquisition reference remanded to the reference court for fresh trial and disposal.

3. In the light of the submission made by the learned counsel on both sides and having regard to the fact that the appeals arising from the connected cases have been allowed and the judgments and decrees passed by the reference court have been set aside and the land acquisition references remanded to the reference court for fresh trial and disposal, we deem it appropriate to allow this appeal.

We accordingly allow the appeal, set aside the decree and judgment passed by the Court of the Additional Subordinate Judge of Thiruvananthapuram on 31.7.2013 in L.A.R.No.275 of 2009 and remand L.A.R.No.275 of 2009 to the court below for fresh trial and disposal. It will be open to both sides to adduce evidence, oral and documentary, in support of their contentions. It will also be open to them to move the reference court for joint trial and disposal along with the connected cases. The parties shall appear through counsel in the court below on 15.9.2015. No costs.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
ANU SIVARAMAN
JUDGE

/TRUE COPY/

P.A. TO JUDGE