

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

LA.App..No. 1168 of 2010 ()

**AGAINST THE JUDGMENT AND DECREE IN LAR 377/2008 OF II ADDITIONAL SUB COURT,
THIRUVANANTHAPURAM DATED 3.3.2009
APPELLANT/RESPONDENT NO.1 IN LAR:**

**STATE OF KERALA
REP. BY THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM.**

**BY ADVOCATE GENERAL
SENIOR GOVERNMENT PLEADER SRI. R. PADMARAJ**

RESPONDENTS/CLAIMANT AND RESPONDENT NO.2 IN LAR:

**1. VIJAYALAKSHMI, D/O. SARADA
TC 40/85(1), SREERAM, MUTTATHARA
THIRUVANANTHAPURAM.695 035**

**2. THE SECRETARY,
TRIDA, THIRUVANANTHAPURAM.**

**R1 BY ADV. SRI.R.S.KALKURA
R-2 BY ADV. SRI.M.RAJAGOPALAN NAIR**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
15-06-2015, ALONG WITH LAA. 566/2013, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

shg/

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

L.A.A.Nos.1168 of 2010 & 566 of 2013

Dated this the 15th day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

These appeals have been filed respectively from the judgments in LAR No.377/2008 and 379/2008 on the file of the II Additional Sub Court, Thiruvananthapuram.

2. The land was acquired for widening of Thakaraparampu - Eanchakkal - NH Bypass Road. In both these cases the notification under Section 4(1) was published on 27.7.2004. The Land Acquisition Officer fixed the land value at the rate of Rs.3,08,750/- per are as per the award passed on 22.08.2007. The court enhanced the land value to Rs.30 lakhs per are and the State has come up in appeal.

3. The learned Senior Government Pleader invited our attention to the judgment of a Division Bench of this

Court in LAA No.533/2010. Subject matter of the said appeal related to the very same acquisition and the notification under Section 4(1) was published on 27.07.2004. The value awarded by the Land Acquisition Officer was Rs.3,08,750/- and the reference court enhanced the land value to Rs.28 lakhs. Based on the earlier judgment of this court, in LAR No.1/2011 which was also from the very same acquisition the Division Bench re-fixed the market value at Rs.21,24,200/-.

4. We heard the learned counsel for the respondents also.

5. In the light of the fact that the acquisition herein is also for the same purpose and the properties are also of a similar nature, we are of the view that it is only just and proper that the respondents also are given compensation at the same rate.

6. Learned Senior Government Pleader submitted that the reference court has granted unreasonable enhancement for the value of structures. In paragraph 9 of

the judgment it is held that in LAR 377/2008 the structures were undervalued by the Land Acquisition Officer, and based on Ext.A4 and A4(a) a balance amount of Rs.3,06,716/-, has also been awarded. Similarly in LAR 379/2008 a balance amount of Rs.3,26,548/- has been awarded. Learned Senior Government Pleader submitted that in both cases entire building and structures in the properties have not been demolished and therefore the claimants will not be entitled for the total value of the buildings and structures as assessed by the engineer. The learned counsel for claimants supported the award.

Since there is no detailed discussion in the judgment under appeal, of the various factual aspects and the evidence we are of the view that the said aspect will have to be reconsidered by the reference court. Accordingly, the appeals are allowed by re-fixing the land value to Rs.21,24,200/- (Rupees twenty one lakhs twenty four thousand two hundred only). As far as the value of structures are concerned, we vacate the findings in

paragraph 9 and remand the matter for fresh consideration by the reference court and both parties are at liberty to adduce evidence. No costs.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/