



2025:KER:28987

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947

LA.APP. NO. 292 OF 2013

ARISING OUT OF THE JUDGMENT AND DECREE DATED
27.07.2012 IN LAR NO.12 OF 2006 OF SUBORDINATE JUDGE'S
COURT, KASARAGOD

APPELLANTS/REFERRING OFFICER & 1ST RESPONDENT IN LAR:

- 1 STATE OF KERALA
REPRESENTED BY THE SPECIAL TAHSILDAR (LA)
KASARAGOD.
- 2 THE DISTRICT COLLECTOR
KASARAGOD.

BY ADV
SMT.REKHA C.NAIR, SR.GOVERNMENT PLEADER

RESPONDENTS/CLAIMANTS & 2ND RESPONDENT IN LAR:

- 1 ZAREENA IBRAHIM KHALEEL
AGED 46 YEARS
RESIDING AT THALANGARA BUNGALOW,
THALANGARA VILLAGE, KASARAGOD TALUK,
P.O.THALANGARA - 671 122.
- 2 T.MUKTBAR ABDULLA
AGED 27 YEARS
RESIDING AT THALANGARA BUNGALOW,
THALANGARA VILLAGE, KASARAGOD TALUK,
P.O.THALANGARA - 671 122.
- 3 T.AMINA IZZA
AGED 20 YEARS
RESIDING AT THALANGARA BUNGALOW,
THALANGARA VILLAGE, KASARAGOD TALUK,
P.O.THALANGARA - 671 122.



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- 4 T.MOHAMMED
AGED 17 YEARS
RESIDING AT THALANGARA BUNGALOW,
THALANGARA VILLAGE, KASARAGOD TALUK,
P.O.THALANGARA - 671 122.
- 5 T.M.KUNHAMINA
AGED 88 YEARS
RESIDING AT THALANGARA BUNGALOW,
THALANGARA VILLAGE, KASARAGOD TALUK,
P.O.THALANGARA - 671 122.
- 6 THE DEPUTY CHIEF ENGINEER
SOUTHERN RAILWAY, (CONSTRUCTION) ,
KANNUR - 670 002.

BY ADVS.

SRI.T.A.SHAJI (SR) . } R1 TO R5
SRI.ATHUL SHAJI, }
SMT.NAMITHA JYOTHISH, }
SRI.K.SHRI HARI RAO, SC, RAILWAYS, R6

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY
HEARD ON 27.03.2025, ALONG WITH LA.App..263/2013, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:28987

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947

LA.APP.NO.263 OF 2013

ARISING OUT OF THE JUDGMENT AND DECREE DATED
27.07.2012 IN LAR NO.11 OF 2006 OF SUBORDINATE JUDGE'S
COURT, KASARAGOD

APPELLANTS/REFERRING OFFICER & 1ST RESPONDENT IN LAR:

- 1 STATE OF KERALA
REPRESENTED BY THE SPECIAL TAHSILDAR (LA) ,
KASARAGOD.
- 2 THE DISTRICT COLECTOR
KASARAGOD

SMT.REKHA C.NAIR, SR.GOVERNMENT PLEADER

RESPONDENTS/CLAIMANT & 2ND RESPONDENT IN LAR:

- 1 T.M.KUNHAMINA
W/O.LATE THALANGARA ABDULLAKUNHI,
RESIDING AT THALANGARA BUNGALOW,
P.O.THALANGARA, PIN 671 122.
- 2 THE DEPUTY CHIEF ENGINEER
SOUTHERN RAILWAY (CONSTRUCTION) ,
KANNUR,PIN 670 002.

BY ADVS.

SMT.NAMITHA JYOTHISH, R1
SRI.T.A.SHAJI (SR.) , ATHUL SHAJI, R1
SRI.K.SHRI HARI RAO, SC, R2

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY
HEARD ON 27.03.2025, ALONG WITH LA.App..292/2013, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

Dated this the 27th day of March, 2025

[LA.App.Nos.292/2013, 263/2013]

These LAAs are the third round of appeals filed by the State impugning the judgments and decrees in two LARs arising out of the acquisitions made in the same village, under the same notification and concerning the very same purpose. They are heard and disposed of together.

2. Two different extents of land viz., 0.0706 hectares in LAR No.11 of 2006 and 0.0794 hectares in LAR No.12 of 2006 owned by respondents/ claimants in the same survey number 96/7(10) of Thalangara Village were acquired for the purpose of doubling the railway track from Kannur to Uppala. Notification under Section 4 (1) was published on 08.01.2004. The Land Acquisition Officer (LAO) passed Award No.11/2005 dated 19.11.2005. Possession of the land was taken on 18.03.2004. The land value awarded by the LAO was Rs. 5,084/- per cent in both the LARs. In the reference that followed at the instance of the respondents/ claimants, the land value was enhanced to Rs.45,000/- per cent.



State preferred appeals before this Court alleging the enhancement as exorbitant and the matter was remanded back for fresh consideration. After the said remand, the reference court enhanced the land value to Rs.75,000/- per cent. Second round of appeals at the instance of the State followed and the matter was again remanded back by this Court. The reference court has then fixed the land value at Rs.65,000/- per cent. This enhancement after the second remand is challenged by the State in these two appeals.

3. LAA No.263 of 2013 is filed by the State challenging the judgment and decree dated 27.07.2012 in LAR No.11 of 2006. LAA No.292 of 2013 is filed challenging the judgment and decree dated 27.07.2012 in LAR No.12 of 2006.

4. Heard Smt.Rekha C.Nair, learned Senior Government Pleader for the appellants, Sri.Athul Shaji Advocate, for the respondents/claimants and Sri.Shri Hari Rao, learned Standing Counsel for the respondent - Railway.

5. Exts.A1 to A9 had been marked and AW1 examined for the claimant prior to the remand. The respondents had marked Exts.R1 to R11 prior to the remand and had examined RW1.



Subsequent to the remand, claimants marked Ext.A10. A commission report was also marked as Ext.X3. Respondents have not adduced any additional evidence subsequent to the remand.

6. The reference court has in both the judgments impugned in these appeals, placed reliance on Ext.A10 document for arriving at the land value. The principal challenge put forth by the State in these appeals is against the said reliance on Ext.A10. The said document, which is an assignment deed, produced by the claimants subsequent to the remand is a sale deed dated 02.04.2002 registered as Document No.555/02. The property covered by Ext.A10 is situated 15 km south of the acquired properties. Section 4(1) notification concerning the acquired land was issued two years after the execution of Ext.A10.

7. The learned Senior Government Pleader vehemently contended that, the distance of 15 km from the acquired property and the property covered in Ext.A10 and the fact that the transaction involving the exemplar had been entered into 2 years prior to the relevant 4(1) notification, disqualify Ext.A10 from being a reliable exemplar to arrive at the land value of the acquired property.



8. The learned counsel for the respondents, on the other hand, submitted that the reliance placed by the reference court on Ext. A10 was valid and proper.

9. The reference court had noted that the acquired property is situated within the limits of Kasaragod Municipality at Thalangara Junction. It is a locality of much commercial importance with Mammunhi Road and fisheries road, LP School, Coastal Police Station, Kasaragod Railway Station, nursing and pharmacy colleges, post office, other establishments of Malik Dinar Educational Academy, etc. nearby. Thus commercial importance of the locality wherein the acquired land is situated is well documented and evidenced. The LAO had relied on Ext.R5 to fix the land value. Ext.R5 is dated 20.05.2003. The property covered in Ext. R5 has an extent of 14 cents. It does not have an approach road. The centage value fixed therein is Rs.5,714/-. The said land covered by Ext.R5 has been rightly termed by the reference court as not similar to the acquired property.

10. As regards Ext.A10 is concerned, I have scrutinized the reasoning given by the reference court for placing reliance on the



said document. The fact that the property covered by Ext.A10 is situated in a different village and 15 km. away from acquired land coupled with the fact that Ext.A10 was executed 2 years prior to Section 4 (1) notification with respect to the acquired lands, are put forth as the main reasons for doubting the reliability of Ext.A10 as an exemplar. This contention merits a closer examination.

11. It is revealed from records that unlike the acquired property, the property covered by Ext.A10 is not situated in the heart of the town. It is situated in Uduma Village and by nature it is a garden land. It has road access from the Uduma- Kappil beach road. The genuineness of Ext.A10 document has never been challenged. Respondents do not have a case that the transaction covered by Ext.A10 is devoid of bonafides. They do not have a case that the property is covered by Ext.A10 is superior in terms of nature and value to the property to the acquired property thus justifying the substantial land value per cent reflected therein. No evidence has been let in to show that the consideration in Ext.A10 is excessive. Ext.A10 document has not been disputed on any count. The Advocate Commissioner in Ext.X3 Commission report has reported



that the property covered by Ext.A10 is situated in Uduma village which is about 15 km away from the acquired property. The commercial importance of the area in which the acquired property is situated has been confirmed in Ext.X3 report. Taking note of these aspects, the reference court concluded that the land value two years prior to the date of Section 4 (1) notification in an area of less commercial importance was several times higher than the consideration shown in Ext.A5. The reference court thus rightly concluded that the compensation awarded by the LAO was not fair and reasonable and that the claimants are entitled to get an enhancement in the value. Based on the oral and documentary evidence put forth, the reference court has reasoned that the consideration shown in Ext.A10 had relevance and that the same ought to be taken into account while fixing the land value of the acquired property. A further increase of 15% in the land value was granted following the dictum in **Krishi Utpadan Mandi Samithi, Sahswan v. Bipin Kumar** [(2004) 2 SCC 283].

12. As regards the compensation awarded for the structures, trees and other improvements in the acquired land, I note that the



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learned Sub Judge has fairly elaborated the reasons for the same. Ext.X1 report of the Commissioner had been subjected to close scrutiny and had been made the basis for fixing the compensation. I do not find any illegality in the said process adopted. As regards the compensation for damages sustained to the house, the learned Sub Judge has in the impugned judgments adopted 1/10th value shown by the Advocate Commissioner and an amount of Rs.5,00,000/- has been awarded in place of Rs.13,00,000/- that had been awarded prior to the remand. Nothing has been pointed out so as to interfere with the said findings of the Sub Court.

In view of the above, I do not find any reason to interfere with the judgment and decree of the learned Sub Judge impugned in these LAAs. LAA No.263 of 2013 and LAA No.292 of 2013 are dismissed. No costs. All interlocutory applications stand closed.

Sd/-

**SYAM KUMAR V.M.
JUDGE**

csl