

(2011) 03 KL CK 0269
In the High Court Of Kerala
Case No : L.A. App. No. 1348 of 2010

Ammini Alex, Saji P. Alex and Annie. P. Alex

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 30-03-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1A), 23(2), 28

Citation : (2011) 03 KL CK 0269

Hon'ble Judges : Pius C. Kuriakose, J;N.K. Balakrishnan, J

Bench : Division Bench

Advocate : George Varghese Perumpallikuttiyil, for the Appellant; Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—The claimant is in appeal. His land with a double storied building extending to 20 sq. mtr. situated in Aloor junction of M.C. Road was acquired for the purpose of upgradation of M.C. Road under the K.S.T.P. Scheme. The Land Acquisition Officer fixed the land value at the rate of Rs. 88,235/- per Are. For the building, the Land Acquisition Officer awarded a total compensation of Rs. 99,735/-.

2. Before the Reference Court the Appellant produced Exts. A1 to A3 and would claim land value at the rate of Rs. 4 lakhs percent. The Court below however did not place any reliance on Exts. A1 to A3 and would confirm the land value awarded by the Land Acquisition Officer. In the same way the Court below did not award any compensation for value of the building. According to the Court below there was no evidence which would justify awarding more compensation for the building.

3. In this appeal preferred by the claimant grounds are raised challenging what is described as inadequacy of land value fixed by the Court below. Importantly there is no claim in this appeal for enhancement of the compensation awarded

towards building value. Sri. A.R. Dileep, learned Counsel for the Appellant would argue on the basis of the various grounds. He submitted that Exts. A2 and A3 would have been relied upon and the market value could have been refixed at Rs. 4 lakh percent. He pointed out that the property was situated on Ayoor junction itself and Ext. A3 will show that in 2008 the market value is Rs. 10 lakhs percent. All the submissions of Sri. Dileep were very strongly opposed by Smt. T.T. Josephine, learned Government Pleader. We have anxiously considered the rival contentions of either side. We are not at all inclined to look at Ext. A3 which is a post notification document. But we feel that Ext. A2 is a relevant document. Having regard to the importance of the locality and the market value as discernible from the evidence available on record we refix the market value of the land at Rs. 3 lakhs percent. We allow the appeal to the extent of refixing the market value of the property under acquisition at Rs. 3 lakhs percent. The enhanced compensation will be calculated on that basis. The Appellant will be entitled to all statutory benefits which are provided under Sections 23(2), 23(1A) and Section 28 of Land Acquisition Act. The Appellant will be also entitled to proportionate costs.