
(2011) 03 KL CK 0141
In the High Court Of Kerala
Case No : L.A. App. No. 1003 of 2010

Arifa Beevi

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 08-03-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 28, 4(1)

Citation : (2011) 03 KL CK 0141

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

Bench : Division Bench

Advocate : P.R. Venketesh, for the Appellant; Government Pleader, for the Respondent

Judgement

Pius C. Kuriakose, J.—The claimants are the Appellants. Their lands in Manacaud Village of Trivandrum Taluk were acquired pursuant to Section 4(1) notification published on 3.1.1993 for the purpose of establishment of a vegetable market at Chalai bazar. In this appeal the Appellants have claimed for enhanced land value as well as for value of the buildings which existed on the property. It is submitted by the Mr. P.R. Venkatesh, learned Counsel for the Appellants that judgments pertaining to acquisition of land in and around Trivandrum passed by both this Court and by the reference court are being produced along with a petition for their reception as evidence in this appeal. We feel that since it is also on judgments passed by this Court pertaining to land in and around Trivandrum that the Appellants is relying on, the Appellant can be afforded an opportunity to rely on them and the other items of evidence the Appellants want to produce imposing proper conditions. Under the above circumstances, the result of this appeal will be as follows:

The judgment and decree under appeal will stand set aside and LAR No. 37 of 2005 will go back to the 1st Additional Sub Court, Trivandrum. That court will redetermine the market value of the land which was acquired from the Appellants. The court below will also redetermine the total compensation payable

to the Appellants towards value of the buildings which existed on the lands. The learned Subordinate Judge will permit the Appellants to produce whatever further evidence they want to for substantiating their claims regarding land value as well as building value. The documents produced by the Appellants in this Court will be returned to the counsel for the Appellants by the Registry so that the Appellants can produce the same before the court below. The parties will enter appearance before the court below on 6.4.2011 and the court below will complete the enquiry and pass the revised judgment within three months of the court reopening after mid summer vacation. But, we clarify that the above remand order will operate only subject to the following conditions:

1. The Appellants will forfeit 25% of the court fee remitted on the appeal memo to the Government. This means that only 3/4th of the total court fee of Rs. 4,33,200/- will be refunded to the counsel for the Appellants.
2. In case the Appellants become eligible for enhanced compensation over and above what is awarded under the impugned judgment, such enhanced compensation will not carry interest otherwise admissible u/s 28 of the Land Acquisition Act during the period from 22.12.2009 till this date (8.3.2011).