
(2011) 03 KL CK 0311

In the High Court Of Kerala

Case No : L.A.A. No"s. 1231, 1232, 1237, 1246 and 1282 of 2010

Chandran Nair

APPELLANT

Vs

State of Kerala and The Engineer, K.S.T.P.

RESPONDENT

Date of Decision : 30-03-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1A), 23(2), 28, 4(1)

Citation : (2011) 03 KL CK 0311

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

Bench : Division Bench

Advocate : M. Rajagopalan Nair, for the Appellant; Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—Claimants are the Appellants in all these cases. Their properties in Ayirooppara Village were acquired pursuant to Section 4(1) notification published on 6.1.2003 for the up gradation of Thykkode-Kottarakkara State Highway. It is obvious that the Appellant was enjoying all the properties involved in these appeals as their own single holding. What the land Acquisition Officer did was to include a portion of these properties involved in LAR 158/06 corresponding to LAA 1232/10 in category A2 and award land value at the rate of Rs. 47,331/- per Are. The balance portion in this case and the entire properties in the other four cases were included by him in category A3 and he awarded land value at the rate of Rs. 41,415/- per Are. The Reference Court come to the conclusion that the entire property involved in LAR 158/06(LAA 1232/10) has to be included in one and the same category. All the cases were tried jointly and on evaluating the evidence what the Court below did was to award uniform rate of Rs. 1,23,548/- per Are for all the properties.

2. Sri. G. Biju, learned Counsel for the Appellant addressed us on the basis of grounds which are to the effect that the market value redetermined by the Court below is inadequate.

3. Sri. Biju would draw our attention to Exts. A1, A2 and A3. Learned Counsel submitted that the Court below was not justified in not placing any reliance on Exts. A1 and A2. He would draw our attention also to judgment of this Court in LAA 269/09 to which one among us was a party, (i.e. Pius C. Kuriakose). He submitted that in that case properties in Ayirooppara village situated very near to the acquired properties and they were acquired for the very same purpose pursuant to the very same notification and for which the Land Acquisition Officer had awarded only land value at the rate of Rs. 11,707/-, this Court had refixed the land value at Rs. 1,50,000/- per Are. He requested that a proportionate increase be given to the Appellants in these cases based on L.A.A. 269/09. He further requested that at any rate, based on Exts.A1 and A2 the market value be refixed at Rs. 1,98,880/- per Are.

4. The submissions of Sri. Biju were very strongly opposed by senior Government Pleader Smt. Latha T. Thankappan. As far as the property in LAA 269/09 is concerned the learned Government Pleader submitted that there is no evidence on the basis of which it can be held that acquired properties are comparable to those properties. As regards Exts.A1 and A2 also the very same submissions were made by the learned senior Government Pleader.

5. We have very anxiously considered the rival submissions addressed before us. We have also appreciated Exts. A1 to A3 and also the judgment in L.A.A.269/09. We feel that to a certain extent Exts. A1 and A2 as well as the judgment in L.A.269/09 can be taken note of and relied upon. At the same time we are not inclined to accept the submissions of Sri. Biju that proportionate increase based on the judgment in LAA 269/09 should be granted. We have taken into account all relevant inputs and have made a fair guess based on the evidence available on record. We feel that the market value of the properties involved in these cases can be reasonably fixed at Rs. 1,70,000/- per Are.

6. All these appeals are allowed and we refix the market value of the properties under acquisition at Rs. 1,70,000/- per Are. The Appellants are entitled to all statutory benefits which are provided under Sections 23(2), 23(1A) and Section 28 of Land Acquisition Act. However, while decree is drafted and provision is made for interest u/s 28, it will be clarified that during the periods covered by the delay petitions interest will not be payable. No costs.