
(2010) 08 KL CK 0220
In the High Court Of Kerala
Case No : L.A. App. No. 233 of 2010

C.N. Vasanthi and C.N. Saraswathy	APPELLANT
Vs	
State of Kerala and The Manager	RESPONDENT

Date of Decision : 18-08-2010

Acts Referred:

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

Citation : (2010) 08 KL CK 0220

Hon'ble Judges : Pius C. Kuriakose, J;C.K. Abdul Rahim, J

Bench : Division Bench

Advocate : K.K. Chandran Pillai, for the Appellant; Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—The claimants are in appeal. Their property in Thodupuzha village was acquired pursuant to Section 4(1) notification published on 12/06/02 for the purpose of construction of Thodupuzha bypass (Kolani - Vengalloor road). The Land Acquisition Officer awarded land value at the rate of Rs. 19,512/- per Are. The Reference Court under the impugned judgment re-fixed land value at Rs. 57,733/- per Are. The claimants had claimed an amount of Rs. 75,000/- as compensation for injurious affection of two plots belonging to them which remained unacquired. Ext.X1 is commission report recommending that the claim for compensation for injurious affection is justifiable. The court below, however, did not award any amount as compensation for injurious affection.

2. Having heard the submissions addressed before us by Sri. K.K. Chandran Pillai, the learned senior Counsel for the appellants and Smt. Latha T. Thankappan, the learned Senior Government Pleader and having taken into account various judgments passed by ourselves in respect of acquisition of land in Thodupuzha and Manakkad villages more or less at the same time pursuant to the same notification, we are of the view that the appeal should be allowed and market value should be re-fixed at Rs. 50,000/- per cent. Accordingly, allowing

the appeal, we re-fix the market value of the land at Rs. 50,000/- per cent.

3. We find some genuineness in the grievance voiced by the appellant regarding the non-payment of compensation for injurious affection. Having considered the Commission Report, we feel that the appellants are eligible for at least Rs. 50,000/- for compensation for injurious affection. We award to the appellants Rs. 50,000/- as compensation for injurious affection.

4. The appellants will be entitled for all statutory benefits on the re-fixed compensation by virtue of this judgment. But we make it clear that the amount which is awarded towards injurious affection will not carry benefits u/s 23(1A) and u/s 23(2) of the Land Acquisition Act.

5. The appeal is allowed, however, without any order as to costs.