

(1979) 03 KL CK 0011
In the High Court Of Kerala
Case No : L.A.A. No. 168 of 1976

Commissioner, Trichur Municipality

APPELLANT

Vs

Krishnan Menon and Others

RESPONDENT

Date of Decision : 27-03-1979

Acts Referred:

Kerala Land Acquisition Act, 1961 — Section 20, 55(2)

Citation : AIR 1980 Ker 162 : (1979) 2 ILR (Ker) 589

Hon'ble Judges : P. Subramonian Poti, J; P. Janaki Amma, J

Bench : Division Bench

Advocate : Xavier Arakkal, for the Appellant; V. Parameswara Menon and C.K. Raveendranathan, for the Respondent

Final Decision : Dismissed

Judgement

Subramonian Poti, J.—There is a preliminary objection raised against the maintainability of this appeal. The Commissioner of the Trichur Municipality has filed this appeal against the decision of the Sub Court of Trichur enhancing the compensation allowed for land compulsorily acquired by the Land Acquisition Officer. Evidently the Trichur Municipality has come up in appeal as if it is a party interested in the compensation. The acquisition is for the purpose of Trichur Municipal Council and the compensation may be payable out of the funds of the Municipal Council.

2. The question of land value is a matter to be determined as between the claimant and the State who alone are parties to the dispute. Section 55 (2) of the Land Acquisition Act confers right to a local authority or a company in cases where acquisition is made at the cost of a fund controlled or managed by such local authority or by such company to defray from or by such fund or company the charges of and incidental to such acquisition. But the proviso to Sub-section (2) makes it clear that such local authority or company would not be entitled to demand a reference u/s 20 of the Act. When specific power is given under the statute to enable a local authority or a company to appear and adduce evidence

for the purpose of determining the amount of compensation and that only, it cannot be said that as of right the company or a local authority is entitled to file an appeal. The consequence of the provision in Section 55 (2) is not to make a company or a local authority a party for all purposes. It gives the limited right to the company or local authority and that is what is said in Sub-section (2), namely, to adduce evidence so as to afford data for proper adjudication. In this view the appeal by the local authority would be incompetent. A similar case arose before the High Court of Andhra Pradesh in *The Andhra Pradesh Agricultural University Vs. Begari Sayanna Dies L.Rs. and Begari Gangamma and Others*, and the appeal was held to be incompetent. The question as such was not considered in the decision in *S. Pillai v. Spl. Tahsildar*, (1970 KLT 1015) and that decision would not be of assistance to the appellant because in that case the party had moved for leave since the party had no right to appeal. There is no such application for leave and therefore there is no scope for considering the same. In this view the appeal is dismissed. No costs.