
(2001) 10 KL CK 0059
In the High Court Of Kerala
Case No : L.A.A. No. 153 of 1994

Georgekutty

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 03-10-2001

Acts Referred:

Land Acquisition Act, 1984 — Section 12(2), 18, 18(2), 20

Citation : (2001) 3 ILR (Ker) 594

Hon'ble Judges : A. Lekshmikutty, J

Bench : Single Bench

Advocate : V. Giri, for the Appellant; Deepthi, Government Pleader, for the Respondent

Judgement

A. Lekshmikutty, J.—Against the judgment and decree in LAR No. 335 of 1989 on the file of the Principal Sub Court, Alappuzha, this appeal is preferred by the claimant. The proceedings arose out of the application for reference u/s 20 of the Kerala Land Acquisition Act for enhancement of compensation of the land extending 4.62 Ares in Survey No. 450/4-8 at Paravoor village belonging to the claimant. It was acquired for the purpose of Alappuzha-Kayamkulam railway line. The land value awarded by the Land Acquisition Officer is at Rs. 2499/- per Are. An amount of Rs. 16,118/- was allowed as per Award No. 88/87-88 dated 9.10.1987. Out of the said amount Rs. 1921.71 was deducted alleging reclamation charges. The claimant contended that the land value awarded is much less than the prevailing market value of the property. He has claimed Rs. 4000/- per cent before the Reference Court. The claimant filed a statement contending that he is entitled to get land value at the rate of 4000/- which is the prevailing market value. The property acquired has great potential value. It is stated that the property is situated in an important area near the scooter factory, Industrial Complex, S.D. College, St. Joseph's Church and other public institutions. Road lies very near to the acquired property. The Court below fixed the value of the property as Rs. 3000/- per cent but dismissed the Reference application on the ground that the application for Reference was barred by

limitation. Against the said judgment and decree, the claimant filed this appeal.

2. The only question to be considered is whether there is any reason to set aside the judgment and decree passed by the lower court. There is no dispute with regard to the fact that 4.62 Ares of land in Survey No. 450/4-8 of Paravur village belonged to the claimant was acquired by the State for Alappuzha-Kayamkulam railway line. The land value was fixed at Rs. 2499/- per Are and total compensation of Rs. 16,118/- was allowed as per award No. 88/87-88 dated 9.10.1987. The contention of the claimant is that the land value awarded by the Land Acquisition Officer is much less than the prevailing market value. During the relevant time the market value of the property was Rs. 4000/- per cent. To substantiate this contention, the claimant has produced Exts. A1 and A2. They are the photocopies of judgments in LAR Nos. 401/1989 and 388/1989 of the Principal Sub Court, Alappuzha. However on the basis of the evidence the lower court fixed the market value of the property as Rs. 3000/- per cent. But according to the lower court, the application for enhancement is barred by limitation. This finding of the lower court is challenged in this appeal.

3. It is submitted by learned counsel for the claimant that the Reference Court has no jurisdiction to enter into the question of limitation. The reference was made u/s 18 of the Land Acquisition Act. The Reference Court is expected to answer the question referred to it. Once it has been referred by the Collector before the Reference Court, the Reference Court need not look into other question which is outside the scope of reference. Section 18 of the Land Acquisition Act reads as follows:

"18. Reference to Court:-

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court whether his objection be to the measurement of the land, the amount of the compensation the persons to whom it is payable or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken; provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other case, within six weeks of the receipt of the notice from the Collector u/s 12, Sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

4. The State has no case that the application filed by the claimant is not in time. u/s 18(2)(b) of the Act, the claimant shall file the application within six weeks of the receipt of the notice from the Collector or within six months from the date of the Collector's award whichever period shall first expire. The Collector has no

case that the application is after the expiry of the prescribed period. If it was beyond the specified period, the Collector would not have referred the matter to the Reference Court. The applicant need file application within six months from the date of Collector's award under Sub-section 2(b) of Section 18 of the Land Acquisition Act. The limitation runs from the contents of the award. The State has no case that the application for enhancement has been preferred by the claimant only after the prescribed period. Since the application was referred by the Collector before the Reference Court, it must be within time. Further the Reference Court need answer only the question referred to it. But in this case, the Reference Court acted beyond its scope.

5. In these circumstances, I am constrained to set aside the judgment and decree passed by the lower court. The State has not challenged the value fixed by the lower court as Rs. 3000/- per cent. The market value of the property is fixed as Rs. 3000/- per cent, i.e. Rs. 7500/- per Are. Thus the enhancement of compensation would come Rs. 18532/-. The respondent is directed to pay 9% interest on the excess compensation of Rs. 18,532/- with 30% solatium from the date of taking possession till the expiry of one year and thereafter at the rate of 12% per annum till realisation. No costs.

6. The Land Acquisition Appeal is disposed of as above.