
(2012) 03 KL CK 0142
In the High Court Of Kerala
Case No : LA. App. No. 128 of 2012

Lissy

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 07-03-2012

Acts Referred:

Citation : (2012) 03 KL CK 0142

Hon'ble Judges : Pius C. Kuriakose, J;C.T. Ravi Kumar, J

Bench : Division Bench

Advocate : Augustine Joseph, Sri. S. Dileep and Sri. K.S. Rockey, for the Appellant; C.R. Syamkumar, Government Pleader, for the Respondent

Judgement

Justice Pius C. Kuriakose

1. The claimant is the appellant. Her property in Mulavukad village was acquired for providing NH Connectivity road to ICTT Vallarpadam. The Land Acquisition Officer awarded the land value at the rate of Rs. 12,852/- per Are. The Reference Court under the impugned judgment has refixed the land value at Rs. 73,455/- per Are. According to the claimant, the land value presently refixed by the Reference Court is inadequate. Shri C.R. Syam Kumar, learned Senior Government Pleader points out that the impugned award suffers from at least one infirmity. According to him, the impugned award has been passed without notice to the Requisitioning Authority, the Cochin Port Trust. We are also of the view that as the Requisitioning Authority, Cochin Port Trust was not made a party by the Reference Court to the proceedings, the impugned award has to be set aside. On that reason we set aside the impugned award and remand L.A.R.No. 201/2009 to the IIIrd Additional Sub Court, Ernakulam. The learned IIIrd Additional Subordinate Judge is directed to implead the Cochin Port Trust as an additional party in the L.A.R.case and issue notice to them. The learned III Additional Subordinate Judge will pass a revised award after affording opportunity to all parties including the newly impleaded additional party to adduce whatever further evidence they want to for substantiating their rival

contentions. The revised award will be passed on the basis of the entire evidence comes on record. The learned IIIrd Additional Subordinate Judge will do whatever is necessary in compliance with the directions herein above at the earliest and at any rate within three months of reopening the court after mid-summer vacation. As we notice some laches on the part of the appellant also in not pointing out this aspect of the matter to the learned Subordinate Judge, we are not inclined to refund court fee presently remitted in full. The Registry will refund only 90% of the court fee presently remitted (Rs. 58,700/-) to the appellant.