
(2010) 06 KL CK 0067
In the High Court Of Kerala
Case No : L.A. App. No. 417 of 2009

Prabhakaran Nair

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 17-06-2010

Acts Referred:

Citation : (2010) 06 KL CK 0067

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.—All these appeals are preferred by the claimants whose lands in Thodupuzha village were acquired for the purpose of construction of Kolani - Vengalloor Bye pass. The acquisition covered by L.A.A. Nos. 417/2009, 748/2009, 674/2009 and 645/2009 were pursuant to Section 4(1) notification published on 12/6/2002. For the lands involved in those cases, which were dry lands, the Land Acquisition Officer awarded land value at the rate of Rs. 19,512/- only per Are. The Reference Court in those cases by a common judgment would refix the land value at the rate of Rs. 57,733/- per Are. The lands involved in other two appeals (L.A.A. Nos. 298/2010 & 347/2010) were also situated in the same village and the acquisition was for the same purpose. However, those acquisitions were on the basis of a notification issued two and half years after the notification in the earlier cases. For the lands in those cases, the Land Acquisition Officer awarded value at the rate of Rs. 25366/- per Are. The Reference Court, relying on the common judgment which is impugned in the first four cases, would refix the market value of land at Rs. 75,055/- per Are.

2. In these appeals, the claimants have raised identical grounds contending that the market value redetermined by the Reference Court under the two common judgments is grossly inadequate. Mr. K.K. Chandran Pillai, learned Counsel for

the appellants, addressed arguments before us based on the grounds in the appeal memoranda. According to Mr. Pillai, having regard to the judgments delivered by this Court in various other cases pertaining to acquisition of land in Thodupuzha village pursuant to earlier notification, even the claim in the appeal, which is at the rate of Rs. 86450/- per Are in the first four cases and at the rate of Rs. 1,23,500/- per Are in the next two cases, is very low.

3. All the submissions of Mr. Chandran Pillai were opposed by Smt. Latha T. Thankappan, learned senior Government Pleader for the respondent. According to her, the learned Subordinate Judge has fixed the market value on the basis of the evidence which was available on record.

4. Having considered the rival submissions addressed at the Bar and having kept in mind various earlier decisions of this Court including the decision in *State of Kerala v. Jose Simon* 2009 (1) KLT 76 pertaining to acquisition of dry land in Thodupuzha village at earlier points of time, we feel that there is justification for allowing all these appeals completely. Hence, we refix the value of lands involved in L.A.A. Nos. 417/2009, 748/2008, 674/2009 & 645/2009 at Rs. 86,450/- per Are. Similarly, we refix the value of lands involved in L.A.A. Nos. 298/2010 & 347/2010 at Rs. 1,23,500/- per Are.

All the appeals are allowed as above. It is needless to mention that the the appellants/claimants will be entitled for all statutory benefits admissible u/s 23(2), 23(1A) and Section 28 of the Act on the total enhanced compensation to which they become eligible by virtue of this refixation. The parties are directed to suffer their respective costs in the appeals.