
(2013) 07 KL CK 0080
In the High Court Of Kerala
Case No : LA. App. No. 948 of 2004

Shibu Mathew

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 23-07-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (2013) 07 KL CK 0080

Hon'ble Judges : S. Siri Jagan, J; K. Ramakrishnan, J

Bench : Division Bench

Advocate : Siby Mathew and Sri. A.A. Mohammed Nazir, for the Appellant; P.A. Raziya, Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

S. Siri Jagan, J.—Certain properties belonging to the appellant were acquired by a notification dated 20.2.1996 issued u/s 4(1) of the Land Acquisition Act. The land acquisition officer fixed land value at Rs. 1,977/- per are. Dissatisfied with the land value fixed by the land acquisition officer, the appellant sought reference and L.A.R. No. 31/1997 came to be referred to the Sub Court, Pathanamthitta. The Sub Court, after considering evidence adduced by the parties, fixed land value at Rs. 15,000/- per are. Still dissatisfied with the land value fixed, the appellant has approached this Court seeking enhanced land value. The judgment of the Sub Court was a common judgment in L.A.R. Nos. 31/97, 38/97, 54/97 and 29/97. For the properties involved in all the L.A.Rs., the same land value was fixed. The claimant in L.A.R. No. 29/1997 filed L.A.A. No. 877/2004 challenging the land value fixed by the Sub Court. This Court, by judgment dated 14.11.2007, set aside the judgment of the Sub Court and remanded the matter for fresh consideration. After remand, on fresh consideration, the Sub Court passed revised judgment fixing land value at Rs. 30,000/- per are by judgment dated 28.6.2008. The appellant submits that the appellant is entitled to the said land value for his land also. We have heard the learned Government Pleader also.

2. The learned Government Pleader does not dispute the fact that the revised judgment in L.A.R. No. 29/1997 fixing the land value at Rs. 30,000/- per are has become final, since the State has not filed any appeal against that judgment. Insofar as the properties involved in L.A.R. No. 29/1997 and in this case are comparable properties, the appellant is also entitled to the same land value. However, in this appeal, the appellant had restricted the claim for only Rs. 25,000/- per are. The appellant submits that insofar as this Court is empowered to award the real market value of the property even if the claim is for a lesser amount, with the direction to pay additional court fees, the appellant may be given the benefit of the judgment in L.A.R. No. 29/1997 and the appellant is prepared to pay the balance court fee accordingly. In the above circumstances, this appeal is allowed as follows:

- (a). The land value for the land acquired from the appellant is re-fixed as Rs. 30,000/- per are.
- (b). The appellant shall pay balance court fee based on that land value within three weeks.
- (c). The decree shall be issued only after payment of balance court fee.
- (d). The appellant would be entitled to all statutory benefits based on the above land value re-fixed by us.