

(2012) 03 KL CK 0141
In the High Court Of Kerala
Case No : LA. App. No. 63 of 2012

State of Kerala and The Executive Engineer, K.S.T.P.	APPELLANT
Vs	
Thankachan Represented By Power of Attorney Alex. T.K Valuthundil	RESPONDENT

Date of Decision : 07-03-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1A), 23(2), 28

Citation : (2012) 03 KL CK 0141

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

Bench : Division Bench

Advocate : C.R. Syam Kumar, Govt. Pleader, for the Appellant;

Final Decision : Allowed

Judgement

Justice Pius C. Kuriakose

1. Service is complete. The respondent-claimant has not entered appearance for resisting the appeal. The one ground which is seriously raised by the Government in this appeal is that the Reference Court granted the DLPC rate in full to the claimant. According to Mr. C.R. Syam Kumar, learned Senior Government Pleader, the DLPC rates are fixed not only on the basis of market value of the property but also the amounts which may be payable to the party towards statutory components such as solatium u/s 23(2) and additional amount u/s 23(1A) if the party had opted for land acquisition proceedings. According to the learned Government Pleader, there is every justification for reducing at least 45% from the DLPC rates while fixing the market value in proceedings for acquisition under the provisions of the Land Acquisition Act.

2. As already stated above, the submission of Mr. C.R. Syamkumar is not resisted by anybody at the Bar. We find force in the submission of the learned Senior Government Pleader. But we are not inclined to deduct 45% from the market value fixed by the Court. We are inclined to deduct only 30%. Taking into account

the fact that solatium component itself is 30% of the market value and 30% is deducted, the market value of the land will stand refixed at Rs. 38,500/- per cent instead of the rate of Rs. 55,000/- per cent fixed under the impugned award. The appeal stands allowed to the above extent only. On the refixed compensation, the claimant will be entitled to all statutory benefits under Sections 23(2), 23(1A) and Section 28 of the Land Acquisition Act. The appeal is allowed to the above extent.