

(2011) 11 KL CK 0033

In the High Court Of Kerala

Case No : LA. App. No. 345 of 2011 (A)

State of Kerala and The Executive Engineer, K.S.T.P,
Kottarakkara

APPELLANT

Vs

K. Rajamma

RESPONDENT

Date of Decision : 19-11-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1A), 23(2), 28, 4(1)

Citation : (2011) 11 KL CK 0033

Hon'ble Judges : Pius C. Kuriakose, J;K. Harilal, J

Bench : Division Bench

Advocate : C.R. Shyam Kumar, Government Pleader, for the Appellant; T.D. Rajalakshmi and Sri. R. Venugopal, for the Respondent

Final Decision : Allowed

Judgement

Justice Pius C. Kuriakose, J.—This appeal by the Government pertains to acquisition of land in Adoor village for the purpose of Adoor Bye pass. Section 4(1) notification was published on 18.6.2004. The Land Acquisition Officer awarded land value at the rate of Rs. 6841/-per are. The reference court relying on affidavits filed by the other land owners, who opted for DLPC package, would refix the land value at Rs. 55,000/- per cent, the rate at which their properties were purchased by the Government. The ground prominently raised in this appeal is that the L.A. Court was not justified in awarding to the respondent who had not opted for DLPC package, the full value which had been given to other land owners who had opted for DLPC package. Sri. Shyam Kumar, learned senior Government Pleader submitted that in DLPC package, higher rate is always offered taking into account the statutory components like Sections 23(2) and interest u/s 23(1A) which will inevitably be paid in case the Government goes for L.A. proceedings. We find considerable merit in the submission of Sri,. Shyam Kumar, which was not resisted before us by anybody. We allow the appeal and refix the market value of the land under acquisition at Rs. 38,500/- per cent. The

appeal is allowed to the above extent. The claimant will be entitled to all statutory benefits available under Sections 23 (2), 23(1A) and 28 of the L.A.Act on the refixed compensation. Parties will suffer their respective costs.

A copy of the judgment will be issued to the Government only upon the Registry being satisfied that the Government has complied with the condition imposed by this Court on the delay condonation petition.