

---

**(2010) 08 KL CK 0253**  
**In the High Court Of Kerala**  
**Case No : L.A. App. No. 235 of 2010**

State of Kerala

APPELLANT

Vs

M. Rahim and The Executive Engineer

RESPONDENT

---

**Date of Decision :** 12-08-2010

**Acts Referred:**

Land Acquisition Act, 1894 — Section 4

**Citation :** (2010) 08 KL CK 0253

**Hon'ble Judges :** Pius C. Kuriakose, J;C.K. Abdul Rahim, J

**Bench :** Division Bench

**Advocate :** Government Pleader, for the Appellant; Sri Lal George, for the Respondent

**Final Decision :** Allowed

---

## Judgement

Pius C. Kuriakose, J.—This appeal by the Government pertains to acquisition of land in Pettah village for the purpose of widening of road from Chakai junction. The relevant Section 4(1) notification was published on 22/04/02. As against rate of Rs. 1,70,430/- per Are awarded by the Land Acquisition Officer, the Reference Court relied on Ext.A2 and re-fixed the land value at Rs. 16,54,307/- per Are.

2. It is submitted by Smt. Latha T. Thankappan, the learned senior Government Pleader that Ext.A2 was in respect of acquisition about one and a half years later and that the Land Acquisition Officer had awarded much higher value than what was awarded to the present respondent. Smt. Latha pointed out that this Court interfered with Ext.A2 and reduced the value to Rs. 14 lakhs. According to Smt. Latha, in this particular case even Rs. 14 lakhs cannot be granted as the property here is inferior to the property under Ext.A2. Sri. Lal George, the Learned Counsel for the respondent, however, would oppose the submission of the learned senior Government Pleader. He highlighted that the property involved in this case was on the very Chakai junction. In view of the locational advantages there is every justification for sustaining the impugned judgment, according to him.

3. We have anxiously considered the rival submissions addressed at the Bar. We notice that the claim of the respondent before the court below was only for Rs. 2,50,000/- per cent. We do not know how the learned Subordinate Judge could award more than the above rate to the respondent. Sri. Lal George submitted that it is not correct to say that the claimant claimed only Rs. 2,50,000/ per cent-. He requested that at any rate the claimant should be allowed to amend the claim statement. We are not prepared to allow the request straightaway. We set aside the judgment and decree and remand L.A.R. 111/2005 to the Second Additional Sub Court, Thiruvananthapuram. The learned Subordinate Judge is directed to take a fresh decision in the matter after affording opportunity to both sides to adduce further evidence. On the basis of the entire evidence available on record, the revised judgment will be passed by the learned Subordinate Judge, at the earliest, and at any rate within four months of receiving a copy of this judgment.

4. This appeal is thus, allowed by way of remand.