(2011) 03 KL CK 0107

In the High Court Of Kerala

Case No : L.A. App. No''s. 16, 485 and 489 of 2010 and C.O. No''s. 10 and 77 of 2011

The Secretary APPELLANT

Vs

The Special Tahsildar (LA) and Others RESPONDENT

Date of Decision : 14-03-2011

Acts Referred:

Citation : (2011) 03 KL CK 0107

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

Bench : Division Bench

Advocate : K. Jayakumar, for the Appellant; Suresh Kumar Kodoth, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—The requisitioning authority, Kodom Belur Grama Panchayat, has preferred these appeals and the claimants in L.A.A. Nos. 485/2010 and 16/2010 have preferred memoranda of Cross Objections.

2. These cases had come to this Court earlier and another Division Bench of this Court, to which one among us (PCK(J)) was party, passed an order of remand in L.A.A. No. 1270/2005 and the impugned judgments have been passed pursuant to the above order. A perusal of the judgment of remand passed by this Court in L.A.A. No. 1270/2005, will show that this Court had noticed some force in the submission made on behalf of the requisitioning authority that it was not safe to rely on Exts. A1 and A2 documents upon which the claimants had relied on very much. Under the remand order, both sides were given opportunity to adduce further evidence.

3. The learned Subordinate Judge under the impugned judgment has refixed the value of land at Rs. 15,038.10. It will be seen, on a careful reading of the impugned judgment, that it is after analysing the various documents and other items of evidence on record that the learned Subordinate Judge came to the

conclusion that the one document which can be safely relied on is Ext. A11 which was executed way back on 14/10/1996. The learned Sub Judge would arrive at value of Rs. 15,038.10 by making calculation on the basis that every year, land value has been increasing in the area of the acquired property at the rate of 10% per year.

4. While we are able to approve the method of appreciation of evidence by the learned Subordinate Judge and also the various legal principles followed by the learned Subordinate Judge, the only aspect of the impugned judgment which we find difficult to approve is the learned Subordinate Judge''s view that the land value has been increasing every year in the locality at the rate of 10% per year. We notice in this connection the judgment of the Supreme Court in G.M. Oil and Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel and Anr. 2008 SAR (Civil) 894. There cannot be much dispute that the area was a rural area. But, we notice some merit in the submission of Sri. Kodoth Suresh Kumar learned Counsel for the claimants that though the area can be described generally as a rural area, the land under acquisition was situated in the commercially most important spot of the area, as the local authority had identified the land under acquisition as the most ideal place for locating its bus stand-cum-shopping complex. Even then, the principles laid down by the Supreme Court in G.M. Oil and Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel and Anr. (cited supra) cannot be forgotten. Keeping those principles in mind and taking into account the reality that the land was situated in what can be described as the heart area of the Panchayat, we are inclined to refix the land value at Rs. 13,000/- per cent. Modifying the impugned judgment, we reduce the land value to Rs. 13,000/- per cent.

5. We shall now deal with the Cross Objections . All these Cross Objections are confined to the claim for enhanced land value over and above Rs. 15,038.10. As we have already refixed the land value at Rs. 13,000/-, the request of Mr. Kodoth Sureshkumar that the land value be refixed cannot be granted. At the same time, we notice genuineness in the submission of Mr. Suresh Kumar that the Court below went wrong in directing deduction of the entire improvements value awarded by the Land Acquisition Officer from the compensation refixed by the Court below. We are of the view that the direction to deduct improvement value was not all justified. Hence, we vacate the above direction and clarify that the claimants will get land value for the entire lands acquired from them at the rate of Rs. 13,000/- per cent and they will be permitted to retain whatever building value and improvements value which was given to them by the Land Acquisition officer under his award. We also clarify that for the total refixed land value, the claimants will be eligible for statutory benefits admissible u/s 23(2), 23(1A) and Section 28 of the Act.

The appeals are allowed to the above extent and the Cross Objections are disposed of as above. Parties are directed to suffer their respective costs.