

**(2002) 06 KL CK 0041**

**High Court Of Kerala**

**Case No:** O.P. No. 142 of 2002

Santha

APPELLANT

Vs

State of Kerala

RESPONDENT

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**Date of Decision:** June 12, 2002

**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 47 Rule 1
- Land Acquisition Act, 1894 - Section 23

**Citation:** (2002) 3 CivCC 498 : (2002) 1 KLJ 769 : (2002) 4 RCR(Civil) 618

**Hon'ble Judges:** A. Lekshmikutty, J

**Bench:** Single Bench

**Advocate:** K.S. Babu and N. Sudha, for the Appellant; D.P. Renu, Government Pleader, for the Respondent

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

A. Lekshmikutty, J.

This review petition is filed against the judgment in L.A.A. No. 927 of 1995 of this Court dated 18.9.2001. Dissatisfied with the enhancement awarded by the reference court in L.A.R. No. 118 of 1993 of the Sub Court, Muvattupuzha, the petitioner filed L.A.A. No. 972 of 1995 before this Court. This Court allowed the appeal and fixed the enhanced land value of the acquired property at Rs. 5,515/- per Are. The petitioner was also awarded statutory benefits, such as solatium, additional market value and interest. The judgment in this case was pronounced on 18.9.2001. Before pronouncing the judgment on 9.9.2001, the Supreme Court of India pronounced judgment in a land acquisition case and held that claimants in land acquisition cases are entitled to interest not only on the enhanced land value alone, but also on the aggregate amount available u/s 23 of the Land Acquisition Act. As per the petitioner, at the time of hearing of the above appeal, the counsel for the appellant was not

aware of the pronouncement of the judgment of the Supreme Court and hence the same could not be brought to the notice of this Court. Hence the judgment passed by this Court is to be reviewed. On the basis of the decision reported in [Sunder and Others Vs. Union of India \(UOI\)](#), the petitioner is entitled to get interest on solatium on additional market value awarded by this Court. So there is an error apparent on the face of the record and so, it is to be reviewed. Review Petition is not opposed by the State.

2. Heard the learned counsel for the petitioner and also the learned Government Pleader. The petitioner has produced copy of the judgment of this Court along with the Review Petition. As per the judgment, this Court fixed the enhanced land value of the property at Rs. 5,515/- per Are. The petitioner is also entitled to interest at 9% per annum for one year from 6.6.1991 and thereafter at the rate of 15% per annum for the enhanced land value till the date of deposit. The petitioner is also entitled to 30% solatium on the enhanced land value and also entitled to additional market value at the rate of 12% per annum on the enhanced land value from 3.1.1989 to 23.5.1991.

3. The learned Government Pleader submitted that an omission on the part of the Court to consider an earlier decision either by mistake or inadvertence is not a ground for review.

4. If the judgment is passed by the same court or by a larger Bench of the High Court, it is not a ground for review of the earlier decision. But decision of a court by overlooking the decision of the Supreme Court which is binding on all courts in India constitutes an error apparent on the face of the record justifying review of the decision contrary to the decision of the Supreme Court. Since it is the law of the land, it is to be followed by all subordinate courts. So it is an error apparent on the face of the records. Admittedly, the judgment in L.A.A. No. 972 of 1995 was pronounced on 18.9.2001, after the pronouncement of the above judgment by the Supreme Court on 9.9.2001. As per the said decision, the claimants in land acquisition cases are entitled to interest not only on the enhanced land value alone but also on the aggregate amount available under the sub-sections of Section 23 of the Land Acquisition Act. In such circumstances, I find that there is an error apparent on the face of the record and hence the review petition is allowed.