

(2011) 03 KL CK 0222

High Court Of Kerala

Case No: LA. App. No. 196 of 2011 (D)

O.P. Alippu

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision: March 10, 2011

Acts Referred:

- Land Acquisition Act, 1894 - Section 28

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

Bench: Division Bench

Advocate: Babu S. Nair, for the Appellant; N.N. Sugunapalan, for the Respondent

Judgement

Pius C. Kuriakose, J.

The claimant is in appeal. His property in Kondotty village was acquired for the extension of runway of Calicut Airport pursuant to Section 4(1) notification published on 15/11/1993. Before the Reference Court, the Appellant/claimant did not adduce any satisfactory evidence. Resultantly the learned Sub Judge would answer the reference confirming the award of the Land Acquisition Officer.

2. In this appeal various grounds are raised and the very first argument of Mr. Babu S. Nair, learned Counsel for the Appellant, was that this Court has already refixed the value of identical lands acquired for the same purpose vide judgment in L.A.A. No. 911/2003 and connected cases dated 11/11/2009 and the request was that the appeal may be allowed and the market value be refixed on the basis of the above common judgment.

3. Smt. Amminikutty, learned standing counsel appearing on behalf of the requisitioning authority points out that this is a case where the requisitioning authority had no notice regarding the reference case. According to her, even the Appellant had a duty to alert the learned Subordinate Judge of the necessity of issuing notice to the requisitioning authority. The said duty was not discharged by the Appellant. Hence, even if opportunity is being given to the Appellant, then the

same shall be on stringent conditions.

4. Having considered the rival submissions, we are of the view that the impugned judgment and decree can be set aside and the L.A.R. case can be referred to the learned Sub Judge giving direction to implead the requisitioning authority and to take a fresh decision after affording opportunity to all the parties to adduce evidence subject to certain conditions.

5. The result of the above discussion therefore is as follows;

The judgment and decree under appeal will stand set aside and the L.A.R. No. 93/1998 will go back to the Subordinate Judges Court, Manjeri. The learned Sub Judge will implead the requisitioning authority as additional 2nd Respondent in the L.A.R. case. Thereafter, the learned Sub Judge will permit all parties to adduce whatever evidence they want to regarding the correct compensation to be paid to the Appellant and will pass revised award on merits taking into account the evidence which comes on record.

6. This judgment will be subject to the following conditions;

- i). In case the Appellant becomes eligible for enhanced compensation by virtue of the revised award passed by the Reference Court, such compensation will not carry interest u/s 28 of the L.A. Act during the period from 1/11/2002 till 19/2/2004.
- ii). The Appellant will forfeit the entire court fee presently remitted by him on the appeal memorandum (one third of the total). The parties (including the requisitioning authority) will enter before the Reference Court on the day the court reopens after mid summer holidays. The learned Sub Judge will make every endeavour to pass revised award within three months of the parties entering appearance.