

(1998) 06 KL CK 0054

High Court Of Kerala

Case No: W.A. No. 1258 of 1997

Mathew Varghese and Another

APPELLANT

Vs

Cochin International Airport,
Ernakulam and Others

RESPONDENT

Date of Decision: June 5, 1998

Acts Referred:

- Constitution of India, 1950 - Article 14
- Land Acquisition Act, 1894 - Section 23

Citation: AIR 1998 Ker 362

Hon'ble Judges: D. Sreedevi, J; A.R. Lakshmanan, J

Bench: Division Bench

Advocate: A.X. Varghese, for the Appellant; Standing Counsel, for the Respondent

Final Decision: Dismissed

Judgement

Ar. Lakshmanan, J.

This appeal is filed by the land owners against the judgment dated 23-5-1997 in O. P. 7380 of 1997. While rejecting the writ petition, the learned Judge has, however, directed the International Airport Authority to give similar benefits which were given to others who were evicted. Pursuant to the judgment dated 23-5-1997, Government of India, Ministry of Environment and Forest passed an order directing the Chief Engineer, Cochin International Airport Limited to comply with the conditions mentioned in the said proceedings No. J-16011/28/97-IA-III dated 28-11-1997 and offer to those persons whose land has been acquired through land acquisition proceedings under the Land Acquisition Act, the same package of compensation and rehabilitation measures as have been given to those who have transferred their land to the Chief Engineer, Cochin International Airport Limited through negotiated settlement provided the former give up their right to move the competent Court for enhancement of compensation.

2. In the Writ Appeal, appellants have contended that the learned Judge has given specific direction to the respondents to provide the benefits due to similarly situated people like the appellants as the rest were allotted with 6 cents of land and Rs. 20,000/- which is denied to the appellants for no cogent reason. We are unable to accede to the request of the appellants in this appeal.

3. Appellants, admittedly, are the owners of the land. In law, the appellants would be entitled for compensation for compulsory acquisition of their lands. It is not in dispute that the appellants have already moved the Civil Court u/s 18 of the Land Acquisition Act for enhancement of compensation and that the said proceeding is pending before the concerned Court. Under such circumstances, it is futile on the part of the appellants, who are admittedly the land owners, to contend that they should also be given the same treatment as that of other persons, namely, occupants of the land. In this case, a total compensation of Rs. 5,28,516.55 was awarded to the appellants by the Land Acquisition Officer. The properties held by the appellants were mortgaged with the Kerala Financial Corporation and, therefore, when the acquisition proceedings were started, the Corporation wrote to the Land Acquisition Officer informing him that the amount due to the Corporation may not be given to the parties and it may be paid to the Corporation as loan advance as per their letter dated 22-12-1994. Accordingly, by two instalments of Rs. 1,06,667/- on 13-9-1997 and Rs. 4,21,850/- on 13-9-1997 were disbursed out of which Rs. 4,21,850/- was paid to the Corporation and the balance to the appellants. It is settled law that appellants, as the owners of the land, are entitled to claim enhanced compensation if they are not satisfied with the compensation amount awarded by the Land Acquisition Officer. But, at the same time, they cannot claim any further relief by way of additional compensation or benefits which were given to other occupants etc. by way of rehabilitatory measures and to those persons who have given up their right to move the competent Court for enhancement of compensation. It is also submitted in the counter-affidavit that there were other land owners who had surrendered their properties voluntarily and obtained compensation amount on negotiation basis. Since they got only one time payment without any chance of agitating the matter for enhancement of compensation, they were given 6 cents of land each and Rs. 10,000/- for shifting their residence by way of rehabilitatory measure. As rightly pointed out by learned counsel for the first respondent, this benefit was given only as a concession to those who have given their land in advance on negotiation basis. Therefore, in our opinion, the appellants cannot have any grievance. The option for the benefit given to others were available to the appellants before the award was passed by the Land Acquisition Officer and compensation paid. As noticed earlier, the appellants have already received the compensation and are now pursuing the matter before the Civil Court for enhancement of compensation u/s 18 of the Land Acquisition Act. There are no merits in the appeal.
The Writ Appeal fails and it is accordingly dismissed.