

(2011) 04 KL CK 0078

High Court Of Kerala

Case No: L.A.A. No"s. 263, 264 and 265 of 2011

Andikutty

APPELLANT

Vs

The Special Tahsildar (LA) and
Another

RESPONDENT

Date of Decision: April 7, 2011

Acts Referred:

- Land Acquisition Act, 1894 - Section 23(1A), 23(2), 28, 4(1)

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

Bench: Division Bench

Advocate: K.A. Salil Narayanan, for the Appellant; No Appearance, for the Respondent

Judgement

Pius C. Kuriakose, J

1. All these are appeals preferred by the claimants whose land in Vengeri village were acquired for the purpose of widening the Karaparamba Canoli Canal Road pursuant to Section 4(1) notification published on 14/07/2000. The Land Acquisition Officer awarded land value at the rate of Rs. 10,970/- per cent. The Reference Court under the impugned judgment on evaluating the evidence which came on record would re-fix the land value at Rs. 55,000/- percent.

2. When these appeals came up for admission, the learned senior Government Pleader Smt. Latha T. Thankappan has taken notice and we have heard her also. Our attention was drawn by Sri. K.A. Salil Narayanan, the learned Counsel for the Appellants to our own recent judgment in L.A.A. 991/10. According to Sri. Salil Narayanan, the above judgment covers the issue to a considerable extent in favour of the Appellants. He would place before us a copy of the above judgment. It is seen from the above judgment that the same pertains to the same acquisition and for the properties covered by that judgment same value was awarded by this Court. We find that under the above judgment, the market value was re-fixed by us at Rs. 80,000/- percent.

3. Smt. Latha T. Thankappan, the learned senior Government Pleader would fairly submit that the judgment in L.A.A. 991/10 has probative value and acquisition was for the same purpose and the property was identical. She would submit that the above judgment has not attained finality. Notwithstanding the above submission of Smt. Latha that the judgment in L.A.A. 991/10 has not attained finality, we feel that on considerations of justice as well as judicial discipline, we should follow our own judgment in L.A.A. 991/10. Hence, relying on that judgment, we allow all these appeals and re-fix the market value of land under acquisition at Rs. 80,000/- percent. The Appellants will be entitled for all statutory benefits admissible under Sections 23(2), 23(1A) and u/s 28 of the Land Acquisition Act. Parties will suffer their respective costs. Registry will issue decree copy to the Appellants only after ensuring that the full Court fee payable on the appeal memo is remitted.