

George Vs. State of Kerala

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Court : Kerala

Decided On : Jan-29-2013

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : George

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN & THE HONOURABLE MR.JUSTICE K.HARILAL TUESDAY, THE 29TH DAY OF JANUARY 2013 9TH MAGHA 193 LA.App..No. 437 of 2011 (D) ----- AGAINST THE JUDGMENT IN LAR.54/2002 of SUB COURT,THODUPUZHA DATED 10 02-2011 APPELLANT(S)/CLAIMANT: ----- GEORGE, S/O.JOSEPH, AGED 7 YEARS,KUNNAMKOTTU HOUSE,THODUPUZHA. BY ADVS.SRI.JOSEPH A.VADAKKEL SRI.GEORGE KARITHANAM VARGHESE SRI.JOSE KURIAKOSE (VILANGATTIL) RESPONDENT(S): RESPONDENTS ----- 1. STATE OF KERALA REPRESENTED BY LAND ACQUISITION OFFICER AND REVENUE DIVISIONAL OFFICER,IDUKKI.

2. THE EXECUTIVE ENGINEER, P.W.D. ROAD DIVISION,IDUKKI. BY GOVT. PLEADER SMT. ANITHA RAVINDRAN. THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 29.01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: S. Siri Jagan & K. Harilal, JJ.

----- L.A.A. No. 437 of 2011 -----
----- Dated this, the 29th day of January, 2013.

JUDGMENT

Siri Jagan, J.

The claimant in L.A.R.No. 54/2002 before the Subordinate Judge, Thodupuzha challenges the judgment of of the Sub Judge in that LAR, in this appeal. The property belonging to the appellant was acquired as per a notification dated 18.8.1999 issued under Section 4(1) of the Land Acquisition Act. The Land Acquisition Officer fixed the land value at Rs. 27,979/- per cent. The sub judge enhanced it to Rs. 1,35,000/- per cent. Still dissatisfied with the land value fixed, the claimant has filed this appeal seeking further enhancement of the land value.

2. According to the appellant, the appellant has, by producing various documents like Exts. A8, A9, A10 and A11 and also by taking out a commission, proved that the property is worth much more than Rs. 1,35,000/- per cent. It is submitted that the Sub Judge went wrong in fixing the land value on the basis of Ext.A8 document. According to the appellant, Ext.A8 property is far away from the acquired property and is in a less commercially important locality, comprised of a large extent of 34 cents, whereas the extent of the acquired property was only 5.93 cents. When Ext.A8 property has fetched Rs. 1,65,000/- per cent, naturally, the appellant's property would fetch much more than that, is the contention raised. It is submitted that an approved valuer who had given evidence as AW4, had valued the property at the rate of Rs. 1,80,000/- per cent. Therefore, at L.A.A. No. 437 of 2011 -:

2. :- any rate, the appellant is entitled to get land value at the rate of Rs. 1,80,000/- is the contention.

3. On the other hand, the learned Government Pleader would contend that the learned Sub Judge has considered every piece of evidence adduced before him and has given very cogent and elaborate reasons as to how he has fixed the land value at Rs. 1,35,000/-. It is pointed out that when the Sub Judge has relied on Ext.A8 document produced by the appellant himself, he has no reason to complain

about the land value fixed by the sub court drawing comparison between the two and scaling down the value proportionately after ascertaining the comparative merits of the two properties. Therefore, according to the learned Government Pleader, no enhancement of land value is warranted in this case.

4. We have considered the rival contentions in detail.

5. As rightly pointed out by the the learned Government Pleader, the Sub Judge has considered every evidence available on record. He has given elaborate and cogent reasons as to why certain documents were not relied upon and why he fixed the land value at Rs. 1,35,000/- per cent, drawing comparison from the property in Ext.A8 document. The Sub Judge found that Ext.A8 document is in respect of a property near a mini bus stand and it was better located than the property acquired. Further, Ext.A8 document was executed in 2001, whereas the subject land was acquired on 18.8.1999. The learned Sub Judge also L.A.A. No. 437 of 2011 -:

3. :- found that there was vacant land near to the acquired land and also shop rooms in a shopping complex from the acquired property were lying vacant. It is considering all these facts elaborately that the sub judge has fixed the land value at Rs.1,35,000/- per cent. We do not find any infirmity whatsoever in the reasoning given by the sub judge who fixed the land value at Rs. 1,35,000/- per cent. In the above circumstances, we do not find any merit in this appeal. Accordingly, the appeal is dismissed. Sd/- S. Siri Jagan, Judge. Sd/- K. Harilal, Judge. Tds/ [True copy] P.S to Judge.

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