

M.Devaki Vs. Special Tahazildar

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Court : Kerala

Decided On : Jan-31-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : M.Devaki

Respondent : Special Tahazildar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN & THE HONOURABLE MR.JUSTICE K.HARILAL THURSDAY, THE 31ST DAY OF JANUARY 2013 11TH MAGHA 193 LA.App..No. 1048 of 2005 ----- AGAINST THE JUDGMENT IN LAR.238/1994 of PRL.SUB COURT, KOZHIKODE DATED 20 01-2005 APPELLANT/CLAIMANT: ----- M.DEVAKI, KRISHNAKALA, P.O.ERANHIKKAL,KOZHIKODE. BY ADV. SRI.P.V.KUNHIKRISHNAN RESPONDENT/RESPONDENT: ----- THE SPECIAL TAHSILDAR L.A., NH NO.I,KOZHIKODE. BY GOVERNMENT PLEADER SRI.E.M.ABDUL KHADER THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 31-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: S. SIRI JAGAN & K. HARILAL JJ.

----- L.A.A.No. 1048 of 2005
----- Dated this the 31st day of January 2013

JUDGMENT Siri Jagan,J.

Appellant is the claimant in LAR No.238 of 1994 before the Subordinate Judge, Kozhikode. That LAR related to the claim of the appellant for enhancement of land value in respect of 19.76 cents of land acquired from the appellant by a notification dated 18.2.1993 published under Section 4(1) of the Land Acquisition Act. The Land Acquisition Officer fixed the land value at Rs.4,600/- per cent. In the LAR, the Court increased the same to Rs.9,000/- per cent. Dissatisfied with the land value fixed by the reference court, the appellant has filed this appeal seeking further enhancement in land value.

2. The appellant relies on Exts.A3 and A4 documents in support of the claim of the appellant for enhancement in land value. It is submitted that in Ext.A3, the value per cent in respect of a comparable property was for Rs.39,000/- and therefore, the reference court ought to have fixed the land value with reference to that land value. It is further submitted that Ext.A4 document L.A.A.No. 1048 o

2. was also in respect of comparable land and hence the reference court ought to have fixed the land value with reference to that document also. It is also the contention of the appellant that the matter had earlier gained the attention of this Court in LAA No.1067 of 1998, when this Court had remanded the matter directing to consider the claim of the appellant based on the judgment in LAR 18.of 1995 also which has not been done by the reference court is the contention raised.

3. On the other hand the learned Government Pleader would contend that the reference court has given very cogent reasons for not relying on Exts.A3 and A4 documents and the said documents are not in respect of comparable properties. As far as the judgment in LAR 18.of 1995 is concerned, the learned Government Pleader points out that the reference court did not consider the same, since the appellant did not choose to produce a copy of the judgment before the Court and to adduce evidence to prove that the same was in respect of comparable properties. Therefore, according to the learned Government Pleader, the land value fixed by the reference court is just and reasonable. L.A.A.No. 1048 o

3. 4. We have considered the rival contentions in detail. As far as Ext.A3 document is concerned, that was registered on 24.2.1997, four years after the notification for acquisition in this case. That is after the formation of the by-pass road for which the appellant's land was acquired. So naturally, after the construction of the by-pass the land value would increase. That being so, Ext.A3 document cannot be relied upon for the purpose of deciding the land value of the appellant's land as on 18.2.1993. As such, we do not find any infirmity in the reasoning of the reference court for not relying on Ext.A3 document.

5. As far as Ext.A4 judgment in respect of another acquired property is concerned, that lies 4 kilometres away from the appellant's property and 2 kilometres away from the main road. Ext.A4 did not show that the properties were acquired for the formation of the by-pass in question. The 4(1) notification in respect of those properties was published on 15.1.1993 and possession was taken on 18.2.1995. The appellant did not adduce any evidence to prove that the said property is comparable to the property involved in this appeal. As such, in respect of Ext.A4 also, there is no infirmity in the reasoning of L.A.A.No. 1048 o

4. the reference court for rejecting it. The reference court also did not rely on the basis land giving cogent reasons for not relying on the same. In short, none of the documents relied upon by the parties were good enough for fixing land value in this case. The reference court found that the judgment in LAR 10.of 1994 and 110 of 1995 fixing land value of a property under the same acquisition, was in respect of comparable land and considering that judgment, the reference court fixed the land value at Rs.9,000/- per cent. Considering the limited materials available before the reference court for consideration we do not think that he could have done anything better. That being so, we do not find any merit in the appeal and accordingly, the same is dismissed. S. SIRI JAGAN,JUDGE K. HARILAL ,JUDGE cms