

State Vs. Smt.Sandhya

State Vs. Smt.Sandhya

SooperKanoon Citation : sooperkanoon.com/1016619

Court : Kerala

Decided On : Jul-30-2013

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : State

Respondent : Smt.Sandhya

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN & THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN TUESDAY, THE 30TH DAY OF JULY 2013 8TH SRAVANA, 1935 LA.App..No. 130 of 2011 (B) ----- AGAINST THE JUDGMENT IN LAR 109/2009 of III SUB COURT, ERNAKULAM, DATED 30 06-2010 APPELLANT(S)/RESPONDENT 1 IN LAR: ----- STATE OF KERALA, REP. BY THE SPECIAL TAHSILDAR (L.A.), ICTT, VALLARPADAM ELOOR. BY GOVERNMENT PLEADER SMT. RAZIYA RESPONDENT(S)/CLAIMANTS & R2 IN LAR: ----- 1. SMT. SANDHYA, VADAKKEDATH, CHERANELLOOR-682 034.

2. SRI. SANTHOSH KUMAR, VADAKKEDATH, CHERANELLOOR-682 034.

3. THE CHAIRMAN, COCHIN PORT TRUST, W.ISLAND-682 013. R3 BY ADV. SRI.E.K.NANDAKUMAR R3 BY ADV. SRI.A.K.JAYASANKAR NAMBIAR R1-R2 BY ADV. SRI.A.BALAGOPALAN R1-R2 BY ADV. SRI.C.MURALI THIS LAND

ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 30-07-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: S. Siri Jagan & K. Ramakrishnan, JJ.

----- L.A.A. No. 130 of 2011 -----
----- Dated this, the 30th day of July, 2013.

JUDGMENT

Siri Jagan, J.

The State is the appellant in this appeal. Property belonging to respondents 1 and 2 was acquired by the State as per a notification under Section 4(1) of the Land Acquisition Act, dated 28.12.2006. The Land Acquisition Officer fixed the land value at Rs. 2,74,709/- per are. On reference, the Sub Court, Ernakulam, in L.A.R.No. 109/2009, enhanced the land value to Rs. 3,44,742/- per are. The State is aggrieved by the land value fixed by the Sub Court.

2. The main contention raised by the appellant is that this Court, in several cases relating to the same notification, re-fixed the land value, reducing 30% from the land value fixed by the reference court. Therefore, according to them, in this case also, land value has to be fixed, reducing at least 30% from the land value fixed by the reference court. Further, it is submitted that in this case, the land forms category 8, namely, wetland, whereas in other cases, it is superior land, namely, dry land.

3. The learned counsel for the claimants would contentd that the land value fixed by the Sub Court is the correct market value of the property and no reduction is warranted.

4. We have considered the rival contentions in detail.

5. It is true that in several Land Acquisition Appeals, L.A.A. No. 130 of 2011 -:

2. :- namely, L.A.A.Nos. 68/2010, 33/2011, 97/2011, 42/2011 and 683/2011, this Court has thought it fit to reduce the land value by 30% from the land value fixed by the reference court; but in all those cases, even the reduced land value is more

than at least 50% of the land value fixed by the Land Acquisition Officer. In this case, if 30% is reduced from the land value fixed by the reference court, then the land value will be less than what was fixed by the Land Acquisition Officer, which is not permissible under law. At the same time, insofar as in other similar cases at least 50%, from the land value fixed by the Land Acquisition officer, has been given as enhancement in land value to the claimants in those cases, the claimants in this case are also entitled to reasonable enhancement. In the above circumstances, we have decided to reduce the increase granted by the reference court in this case by 30%. The difference between the land value fixed by the Land Acquisition Officer and the Reference Court, which is the amount of enhancement in land value, is Rs.70,033/-. If recalculation is made by reducing 30% from the same and adding the resultant sum of Rs.2,74,709/- per are to the land value fixed by the Land Acquisition Officer, the land value L.A.A. No. 130 of 2011 -:

3. :- would be Rs.3,23,732/- per are. In the peculiar circumstances of this case, we re-fix the land value for the land involved in this appeal as Rs.3,23,732/- per are instead of Rs. 3,44,742/- fixed by the reference court. The claimants would be entitled to statutory benefits as applicable to that land value. The appeal is allowed in part as above. Sd/- S. Siri Jagan, Judge. Sd/- K. Ramakrishnan, Judge. Tds/ [True copy] P.S to Judge.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com