

V.Krishnakumar vs State of Kerala

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Court : Kerala

Decided On : Jun-14-2024

Judge : Honourable Mr. Justice a.Muhammed Mustaque,Honourable Mrs. Justice Sophy Thomas

Appeal No. : LA.App./80/2021

Appellant : V.Krishnakumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
FRIDAY, THE 14TH DAY OF JUNE 2024 / 24TH JYASHTA, 1946
LA.APP. NO. 650 OF 2011 AGAINST THE JUDGMENT AND DECREE
IN LAR NO.250 OF 2008 OF III ADDITIONAL SUB COURT,
ERNAKULAM APPELLANT/CLAIMANT: V.T.VIJAYAN, AGED 58
YEARS, S/O.THATHI, VELANGITHOPPIL, NEAR FACT NAGAR,
THEKKUMBHAGAM VILLAGE, KANAYANNUR TALUK, ERNAKULAM
DISTRICT.

BY ADVS. SRI.K.S.BABU SRI.BABU SHANKAR SMT.N.SUDHA
RESPONDENTS/RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY
THE SPECIAL TAHSILDAR (LA) GENERAL, ERNAKULAM.682 011. 2 THE
EXECUTIVE ENGINEER, PWD ROADS DIVISION, ERNAKULAM.682 011. SRI.
T.K. SHAJAHAN - FOR R1 AND R2 THIS LAND ACQUISITION APPEAL HAVING
COME UP FOR HEARING ON 14.06.2024, ALONG WITH LA.App..80/2021,
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE
HONOURABLE MRS. JUSTICE SOPHY THOMAS FRIDAY, THE 14TH DAY OF
JUNE 2024 / 24TH JYAISHTA, 1946 LA.APP. NO. 80 OF 2021 AGAINST THE
JUDGMENT AND DECREE DATED 31.08.2013 IN LAR NO.256 OF 2008 OF
THE SUBORDINATE JUDGES COURT, ERNAKULAM CORRECTED AS PER
ORDER DATED 14.07.2020 IN I LAR NO. 256 OF 2008
APPELLANTS/CLAIMANTS:

1 V.KRISHNAKUMAR S/O. VAIKUNDA IYER, NIRAYAKULAM HOUSE, SANKAR
NAGAR, MARADU 2 ANJU RADHAKRISHNAN W/O.RADHAKRISHNAN,
VENKITTU HOUSE, MARADU BY ADVS. K.S.BABU SMT.N.SUDHA SRI.BABU
SHANKAR RESPONDENTS/RESPONDENTS: 1 STATE OF KERALA
REPRESENTED BY SPECIAL TAHASILDAR (LA), GENERAL, ERNAKULAM,
PINCODE-682 030 2 THE EXECUTIVE ENGINEER, PWD ROADS DIVISION,
ERNAKULAM,PINCODE-682 024 THIS LAND ACQUISITION APPEAL HAVING
COME UP FOR

HEARING ON 14.06.2024, ALONG WITH LA.App..650/2011 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE
HONOURABLE MRS. JUSTICE SOPHY THOMAS FRIDAY, THE 14TH DAY OF

JUNE 2024 / 24TH JYAISHTA, 1946 LA.APP. NO. 81 OF 2021 AGAINST THE JUDGMENT AND DECREE DATED 31.08.2018 IN LAR NO.22 OF 2009 OF III ADDITIONAL SUB COURT, ERNAKULAM CORRECTED AS PER ORDER DATED 14.07.2020 IN i.a. no. @@ of @@ 1826/2019 IN LAR 22/2009. APPELLANT/1ST CLAIMANT: SUDHAKARAN S/O.KESAVAN, KANICHUKATTU HOUSE, THURAVOOR P.O., KUTHIATHODE VILLAGE, CHERTHALA TALUK, ALAPPUZHA. BY ADVS. K.S.BABU SMT.N.SUDHA SRI.BABU SHANKAR RESPONDENTS/RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY SPECIAL TAHASILDAR (LA), GENERAL, ERNAKULAM, PINCODE-682030. 2 THE EXECUTIVE ENGINEER, PWD ROAD DIVISION, ERNAKULAM, PINCODE-682024. BY GOVERNMENT PLEADER THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ORDERS ON 14.06.2024, ALONG WITH LA.App..650/2011 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS FRIDAY, THE 14TH DAY OF JUNE 2024 / 24TH JYAISHTA, 1946 LA.APP. NO. 687 OF 2011 AGAINST THE JUDGMENT AND DECREE DATED 28.01.2011 IN LAR NO.250 OF 2008 OF III ADDITIONAL SUB COURT, ERNAKULAM APPELLANT/RESPONDENT: STATE OF KERALA,REP;BY SPL.TAHSILDAR(LA) ERNAKULAM. BY ADV ADVOCATE GENERAL SRI. T.K. SHAJAHAN SENIOR GOVERNMENT PLEADER RESPONDENTS/CLAIMANT:

V.T.VIJAYAN, S/O. THATHI, VELANGITHOPPIL, NEAR FACT NAGAR, THEKKEUMBHAGAM VILLAGE,TRIPUNITHURA 682 301. BY ADVS. SRI.K.S.BABU SRI.BABU SHANKAR SMT.N.SUDHA SRI.VIPIN VISWAN THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 14.06.2024, ALONG WITH LA.App..650/2011 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS FRIDAY, THE 14TH DAY OF JUNE 2024 / 24TH JYAISHTA, 1946 LA.APP. NO. 588 OF 2014 AGAINST THE JUDGMENT AND DECREE DATED 28.01.2011 IN LAR NO.249 OF 2008 OF III ADDITIONAL SUB COURT, ERNAKULAM APPELLANT/CLAIMANT: 1 P.PADMAKSHAN, (EXPIRED) S/O. KOTTAPURATH PARAMESWARAN, AGED 77 YEARS, NEAR CHINMAYA SCHOOL, WESTERN SIDE OF KANNANKULANGARA, VALIAKADU ROAD, TRIPUNITHURA VILLAGE, KANAYANNUR TALUK, ERNAKULAM DISTRICT.

2 LEELA PADMAKSHAN, W/O. LATE P.PADMAKSHAN, KOTTAPURATH HOUSE, SANATHANA, M.L.A ROAD, MALEKADU, UDAYAMPEROOR P.O, ERNAKULAM PIN - 682307 3 BINDU K.P., D/O. LATE P.PADMAKSHAN, KOTTAPURATH HOUSE, SANATHANA, M.L.A ROAD, MALEKADU, UDAYAMPEROOR P.O, ERNAKULAM, PIN - 682307 4 SUMA K.P., D/O. LATE P.PADMAKSHAN, KOTTAPURATH HOUSE , SANATHANA, M.L.A ROAD, MALEKADU, UDAYAMPEROOR P.O, ERNAKULAM, PIN - 682307 5 ARUNDHATHI K.P, D/O.LATE P.PADMAKSHAN, KOTTAPURATH HOUSE, SANATHANA, M.L.A ROAD, MALEKADU, UDAYAMPEROOR P.O, ERNAKULAM, PINCODE-682 307.

6 KAMALASANAN K.P, S/O. LATE P.PADMAKSHAN, KOTTAPURATH HOUSE, SANATHANA, M.L.A ROAD, MALEKADU, UDAYAMPEROOR P.O, ERNAKULAM, PINCODE-682 307. THE LEGAL REPRESENTATIVES OF THE DECEASED SOLE APPELLANT

ARE IMPEADED AS ADDITIONAL APPELLANTS 2 TO 6 AS PER ORDER

DATED 07/08/2023 IN IA 1/2023 IN LAA 588/2014 BY ADVS. SRI.K.S.BABU SRI.BABU SHANKAR SMT.N.SUDHA SRI.VIPIN VISWAN SRI.K.V.WINSTON P.N.SUMANGALA PARVATHY GIRISH RESPONDENTS/RESPONDENTS: 1

STATE OF KERALA, REPRESENTED BY SPECIAL TAHSILDAR (LA)GENERAL,
ERNAKULAM. PINCODE - 682 011 2 THE EXECUTIVE ENGINEER, PWD
ROADS DIVISION, ERNAKULAM, PINCODE - 682 011. BY SRI. T.P. SHAJAHAN
SENIOR GOVERNMENT PLEADER FOR R1 AND R2 THIS LAND ACQUISITION
APPEAL HAVING COME UP FOR ADMISSION ON 14.06.2024, ALONG WITH
LA.App..650/2011 AND CONNECTED CASES, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWIN A.MUHAMED MUSTAQUE & SOPHY THOMAS,
JJ. ----- L.A. Appeal Nos. 650/2011, 687/2011,
----- Dated this the 14th day of June, 2024

JUDGMENT

A.Muhamed Mustaque, J.

Both the state and the claimant have filed appeals in a Land Acquisition reference. The land was acquired for the purpose of constructing a bridge across Thattappillykkatupuzha. The notification under Section 4(1) of the Land Acquisition Act was issued on 15.07.2006. We shall now refer to each case. L.A.A.Nos. 650 of 2011 and 687 of 2011:- These appeals are filed by the claimant as well as the State. Land valuation comparisons are shown in the table given below:-

Category	Description	LAO Fixed Value	Reference Value	Court of land (Rs. per Are)
Enhanced Value	(Rs. per Are)	V interior low-level	52,100/-	1,04,200/-
dry land	VII interior wetland	44,700/-	89,400/-	

3. Not satisfied with the enhancement, the claimant has

preferred these appeals. The State also agreed and preferred the appeal based on the enhancement. L.A.A.Nos. 588 of 2014:- This appeal was preferred by the claimant. The land in question falls under categories V and VII. L.A.A.Nos. 80 of 2021:- This appeal was preferred by the claimant. The land covered by this appeal is situated in low-level dry land. The land value fixed by the LAO is Rs. 57,850/- per Are. The enhancement value is Rs. 1,44,625/- per Are. Discussion:- The claimant relied on copies of sale deeds A10 and A11, both referenced in Ext. A9 and A13 judgments. However, the Commissioner did not note the property in these sale deeds. Therefore, the Reference Court did not place reliance on these

documents. Admittedly, these documents were relied upon in LAR Land Acquisition Officer awarded Rs. 2,10,500/- per Are, which was enhanced to Rs. 3,34,366/- per Are. We cannot brush aside Exts. A10 and A11, copies of the sale deed, merely because the Commissioner had not visited. It is to be noted that the land lies contiguous and is required for the construction of a bridge. The difference in these matters is essentially based on the nature of the land. Category V consists of interior low-level dry land, Category VII is interior wetland, and Category IV is low-level dry land. Having taken note of the land value in Exts. A10 and A11, and also placing reliance on Exts. A9 and A13 judgments, we are of the view that at least the petitioner would be entitled to a 50% enhancement on the land value fixed by the Reference Court. Accordingly, we hereby pass the following orders:- LAA No. 687 2011 filed by the State is dismissed. LAA No. 650 of 2011 is enhanced by giving 50% enhancement of land value:- Category V: Rs. 1,04,200/- per Are Category VII: Rs. 89,400/- per Are LAA No. 588 of 2014 is enhanced by 50% to Rs. 1,04,200/- per Are. LAA No. 80 of 2021, with a 50% enhancement, has a market value of Rs. 1,44,366/- per Are. We affirm the order of the reference regarding the building value. The appeal filed by the State is dismissed and the appeals filed by the claimants are allowed as above. Sd/- A.MUHAMED MUSTAQUE, JUDGE Sd/- SOPHY THOMAS, JUDGE RMV

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