

The State of Kerala vs Sajeev Kumar

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Court : Kerala

Decided On : Jan-07-2020

Judge : Honourable Mr. Justice Anil K.Narendran

Appeal No. : LA.App./300/2019

Appellant : The State of Kerala

Respondent : Sajeev Kumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN TUESDAY, THE 07TH DAY OF JANUARY 2020 / 17TH POUSHA, 1941 AGAINST THE JUDGMENT & DECREE DATED 21.12.2016 IN LAR 36/2014 OF SUB COURT,THODUPUZHA APPELLANTS/RESPONDENTS: 1 THE STATE OF KERALA REPRESENTED BY THE DISTRICT COLLECTOR,IDUKKI, PAINAVU, KUYILIMALA. 2 THE EXECUTIVE ENGINEER PWD (ROADS) DIVISION, PAINAVU P. O., IDUKKI. BY ADV.SMT S.L.SYLAJA, GOVERNMENT PLEADER RESPONDENTS/CLAIMANTS: 1 SAJEEV KUMAR S/O. VELAPPAN NAIR, KALLUPALATHINKAL, MEMADANGU, PIN - 682316. 2 JYOTHI SAJEEV W/O. SAJEEV KUMAR, KALLUPALATHINKAL, MEMADANGU P.O., PIN - 682316. THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON

07.01.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This appeal filed under Section 54 of the Land Acquisition Act, 1894 is against the judgment and decree dated 21.12.2016 of Sub Court, Thodupuzha in L.A.R.No.36 of 2014. An extent of 0.0128 hectares of land comprised in Survey No.30/6 (Block No.11) of Manakkadu Village of Thodupuzha Taluk owned by the respondents/claimants was acquired for the purpose of widening Thodupuzha-Ramamangalam Road. Notification under Section 4(1) of the Land Acquisition Act, 1894 is one dated 03.03.2010. The Land Acquisition Officer awarded a compensation of Rs.1,19,244/- vide award No.20/2013 dated 01.06.2013 in L.A.C.No.190/2012, fixing the land value at the rate of Rs.55,556/- per Are. For fixing compensation, the Land Acquisition Officer classified the lands into five categories Group 1A, Group 1B, Group 2A, Group 2B and Group 3. The land in the instant case is classified in Group 1B.

2. The reference court enhanced and re-fixed the land

value of Group 1B land as Rs.2,21,046/- per Are. Feeling aggrieved by the enhancement of land value, the appellants, who are the respondents before the reference court, are before this Court in this appeal filed under Section 54 of the Land Acquisition Act.

3. Heard the learned Government Pleader for the appellants. Despite service of notice, none appears for the respondents.

4. By the judgment dated 09.07.2019 in L.A.A.No.36 of

2016 and connected cases, this Court remanded the appeals for fresh disposal to the reference court. Paragraph 3 and the operative portion of the said judgment reads thus:

3. It is seen that there was a batch of references in respect of the lands acquired for the same purpose, pursuant to the same notification by

including in different categories. Though the references were not jointly tried, it is seen that the claimants sought enhanced compensation in all the proceedings mainly based on four documents, viz, certified copy of sale deed No.1142 of 2012 of Thodupuzha SRO dated 12.4.2012, a copy of the order issued by the Government on 27.3.2013, approving the land value fixed for negotiated purchase of a few lands situated at Arakuzha Village for the development of Ernakulam - Thekkady Highway, and the judgments of this court in respect of lands acquired for a different purpose, in LAA No.399 of 2013 and 532 of 2013. The oral evidence tendered by the claimants is also on the same lines specifying the locational importance of the acquired lands. The reference court took

the view that the documents relied on by the claimants except sale deed No.1142 of 2012 cannot be accepted for the purpose of fixing the land value of the acquired lands. Consequently, even though the sale deed referred to above is a post notification sale deed, the reference court fixed the land value for almost all the lands falling under category 1A at Rs.3,68,802/- per Are and based on the said valuation, fixed the land value for the lands included in category 1B at 25% below the land value fixed for the lands included in category 1A. As the matters were not tried together, in a few references, different land values were also fixed. Be that as it may. In terms of the judgment in LAA No.150 of 2017 and connected cases pertaining to lands acquired for the same purpose, pursuant to the same notification by including in category 1A, I have held that the land value fixation made for the said properties by the reference court based on sale deed No.1142 of 2012 cannot be accepted. I have also found that the land value fixed by the Land Acquisition Officer is also not correct and liable to be revised. In the light of the said findings, I have remitted those matters for fresh disposal to the reference court. In so far as the basis of the fixation of land value made in these matters are the land value shown in sale deed No.1142 of 2012 and the land value fixed for the lands included in category 1A, according to me, these matters are also liable to be remitted for fresh disposal. In the result, the land

acquisition appeals are allowed and the matters are remitted for fresh disposal to the reference court. The appellants in LAA Nos.36 and 332 of 2016, 429

and 437 of 2017, 35, 67 and 173 of 2018, will be entitled to refund of the court fee paid on the memoranda of appeals. All the interlocutory applications in the appeals are closed.

5. Having considered the submissions made by the learned Government Pleader, this Court finds that, in view of the

judgment of this Court dated 09.07.2019 in L.A.A.No.36 of 2016

and connected cases, this appeal has to be allowed, by remitting the matter for fresh disposal to the reference court. Accordingly, this appeal is allowed, thereby remitting L.A.R.No.36 of 2014 to the reference court for fresh disposal, taking note of the directions contained in the judgment dated 09.07.2019 in L.A.A.No.36 of 2016 and connected cases. Sd/- ANIL K.NARENDRAN jv JUDGE

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