

The Secretary vs Rajamma

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Court : Kerala

Decided On : May-31-2019

Judge : Honourable Mr. Justice P.B.Suresh Kumar

Appeal No. : LA.App./549/2014

Appellant : The Secretary

Respondent : Rajamma

Judgement :

LA.App..No.536 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO.239/2006 OF SUB COURT, PATHANAMTHITTA THE SECRETARY, KODUMON GRAMA PANCHAYATH, KODUMON, PATHANAMTHITTA DISTRICT. 1 GOPALAKRISHNAN NAIR, S/O.NARAYANAN NAIR, PARANKIMAMKOOTTATHIL HOUSE, KODUMON VILLAGE, PATHANAMTHITTA-691555. PATHANAMTHITTA-689645. BY ADVS. FOR R1 SRI.S.K.SUJITH KRISHNA SMT.ANJU MOHAN SRI.K.SHAJ SRI.M.K.HARIPRIYESH SRI.RENJIT GEORGE SRI.SAJJU.S SRI.S.VISHNU (ARIKKATTIL) FOR R2 SR. GOVERNMENT PLEADER SRI.T.K. SHAJAHAN

31.05.2019, ALONG WITH LA.App..538/2014, LA.App..539/2014, LA.App..541/2014, LA.App..547/2014, LA.App..548/2014, LA.App..549/2014, LA.App..576/2014, LA.App..604/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: LA.App..No.538 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO. THE SECRETARY, KODUMON GRAMA PANCHAYATH KODUMON, PATHANAMTHITTA DISTRICT. 1 KOSHY, S/O.DANIEL, SALEM HOUSE, PUTHENVILA, KIZHAKKETHIL, KODUMON. PATHANAMTHITTA-689645. BY ADVS. FOR R1 SRI.K.SHAJ FOR R2 SR. GOVERNMENT PLEADER SRI.T.K. SHAJAHAN 31.05.2019, ALONG WITH LA.App..536/2014, LA.App..539/2014, LA.App..541/2014, LA.App..547/2014, LA.App..548/2014, LA.App..549/2014, LA.App..576/2014, LA.App..604/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: LA.App..No.539 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO.242/2006 OF SUB COURT, PATHANAMTHITTA THE SECRETARY, KODUMON GRAMA PANCHAYATH, KODUMON, PATHANAMTHITTA DISTRICT. 1 BIJU K.SAM, KINARUVILAYIL HOUSE, KODUMON VILLAGE, PATHANAMTHITTA-691555. PATHANAMTHITTA-689645. FOR R2 SR. GOVERNMENT PLEADER SRI.T.K. SHAJAHAN 31.05.2019, ALONG WITH LA.App..536/2014, LA.App..538/2014, LA.App..541/2014, LA.App..547/2014, LA.App..548/2014, LA.App..549/2014, LA.App..576/2014, LA.App..604/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: LA.App..No.541 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO. THE SECRETARY, KODUMON GRAMA PANCHAYATH KODUMON, PATHANAMTHITTA DISTRICT. 1 RAMACHANDRAN NAIR, S/O.KRISHNAN NAIR, UDAYANIKUNNIL HOUSE, KODUMON VILLAGE, PATHANAMTHITTA - 691 555. PATHANAMTHITTA - 689 645. BY ADVS. FOR R1 SRI.K.SHAJ FOR R2 SR. GOVERNMENT PLEADER SRI.T.K. SHAJAHAN 31.05.2019, ALONG WITH LA.App..536/2014, LA.App..538/2014, LA.App..539/2014, LA.App..547/2014, LA.App..548/2014, LA.App..549/2014, LA.App..576/2014, LA.App..604/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: LA.App..No.547 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO.245/2006 of SUB COURT, PATHANAMTHITTA THE SECRETARY, KODUMON GRAMA

PANCHAYATH, KODUMON, PATHANAMTHITTA DISTRICT. 1 UMMINI BHASKARAN, PUTHENVEETIL KIZHAKKETHIL HOUSE, KODUMON VILLAGE, PATHANAMTHITTA-691555. PATHANAMTHITTA-689645. BY ADV. FOR R1 SRI.K.SHAJ FOR R2 SR.GOVERNMENT PLEADER SRI.T.K. SHAJAHAN 31.05.2019, ALONG WITH LA.App..536/2014,LA.App..538/2014, LA.App..539/2014, LA.App..541/2014, LA.App..548/2014, LA.App..549/2014, LA.App..576/2014, LA.App..604/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: LA.App..No.548 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO. THE SECRETARY, KODUMON GRAMA PANCHAYATH, KODUMON, PATHANAMTHITTA DISTRICT. 1 RAVEENDRAN NAIR, S/O.ACHUTHAN NAIR, KARIPPOLIL HOUSE, KODUMON VILLAGE, PATHANAMTHITTA-691555. PATHANAMTHITTA-689645. BY ADVS. FOR R1 SRI.SAJJU.S SRI.K.SHAJ FOR R2 SR. GOVERNMENT PLEADER SRI.T.K. SHAJAHAN 31.05.2019, ALONG WITH LA.App..536/2014, LA.App..538/2014, LA.App..539/2014, LA.App..541/2014, LA.App..547/2014, LA.App..549/2014, LA.App..576/2014, LA.App..604/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: LA.App..No.549 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO. THE SECRETARY, KODUMON GRAMA PANCHAYATH, KODUMON, PATHANAMTHITTA DISTRICT. 1 RAJAMMA, D/O. BHARGAVI AMMA, UDAYANIKUNNIL HOUSE, KODUMON VILLAGE, PATHANAMTHITTA. PATHANAMTHITTA. BY ADVS. FOR R1 SRI.K.SHAJ FOR R2 SR. GOVERNMENT PLEADER SRI.T.K. SHAJAHAN 31.05.2019, ALONG WITH LA.App..536/2014,LA.App..538/2014, LA.App..539/2014, LA.App..541/2014, LA.App..547/2014, LA.App..548/2014, LA.App..576/2014, LA.App..604/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: LA.App..No.576 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO. THE SECRETARY, KODUMON GRAMA PANCHAYATH KODUMON, PATHANAMTHITTA DISTRICT. 1 T.N.RAJAGOPALAN NAIR, S/O.NARAYANAN NAIR, THACHATHUKOICKAL HOUSE, KODUMON VILLAGE, PATHANAMTHITTA-691555. PATHANAMTHITTA-689645. FOR R2 SR. GOVERNMENT PLEADER SRI.T.K. SHAJAHAN 31.05.2019, ALONG WITH LA.App..536/2014,LA.App..538/2014,

LA.App..539/2014, LA.App..541/2014, LA.App..547/2014, LA.App..548/2014, LA.App..549/2014, LA.App..604/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: LA.App..No.604 of 2014 AGAINST THE DECREE AND JUDGMENT DATED 27-01-2014 IN LAR NO.243/2006 of SUB COURT, PATHANAMTHITTA THE SECRETARY, KODUMON GRAMA PANCHAYATH, KODUMON, PATHANAMTHITTA DISTRICT. 1 BABU, S/O.BABY, KOCHUTHEKKETHIL, KODUMON VILLAGE, PATHANAMTHITTA-691555. PATHANAMTHITTA-689645. BY ADV. FOR R1 SRI.K.SHAJ FOR R2 SR. GOVERNMENT PLEADER SRI.T.K. SHAJAHAN 31.05.2019, ALONG WITH LA.App..536/2014, LA.App..538/2014, LA.App..539/2014, LA.App..541/2014, LA.App..547/2014, LA.App..548/2014, LA.App..549/2014, LA.App..576/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: L.A.A.Nos.536, 538, 539, 541, 547, 548, 549, 576 & 604 of 2014

JUDGMENT

These appeals are by the requisitioning authority challenging the common judgment in a batch of references under Section 18 of the Land Acquisition Act, 1894 ('the Act').

2. Lands held by the claimants in the

proceedings were acquired for the construction of a Mini Stadium and Bus Stand, pursuant to a notification issued under the Act on 10.10.1999. The Land Acquisition Officer fixed the land value for the acquired lands at Rs.810/- per Are. It is pointed out that the said fixation was made based on the sale price shown in a document executed on 06.08.1997. Dissatisfied with the land value fixed by the Land Acquisition Officer, the claimants sought reference. The reference court enhanced and refixed the land value at Rs.15,000/- per Are. The requisitioning authority was not a party before the reference court. They challenged the aforesaid decision of the reference court before this court and the references were remitted by this court for fresh disposal, in terms of the judgment in

F.A.O.No.167 of 2013 and connected cases, on condition that 25% of the amount

covered by the awards of the reference court shall be deposited. On compliance of the condition imposed by this court, after affording the parties yet another opportunity to adduce evidence, the reference court disposed of the references refixing the land value of the acquired lands again at Rs.15,000/- per Are. As noted, the requisitioning authority is aggrieved by the said decision of the reference court. Hence these appeals.

3. Heard the learned counsel for the requisitioning authority, the learned counsel for the claimants as also the learned Government Pleader.

4. It is seen that at the time of admission, this

court imposed a further condition that another 25% of the amount covered by the impugned award shall also be deposited and it is pointed that the said condition is also complied with by the appellant.

5. The basic document referred to above is a

sale deed in respect of an item of property measuring 7.40 Ares. The total sale consideration shown in the document is Rs.6,000/-. If one goes by the said document, the land value would come only to Rs.810/- per Are. The specific case of the claimants is that the land covered by the said document and the acquired lands are not comparable at all. It is also their

case that the sale price shown in the document does not reflect the actual sale price of the lands prevailing at the relevant time in the locality. In order to substantiate the said case, the claimants place reliance on two documents, viz, Exts.A1 and A2 marked in LAR No.239 of 2006, which is the subject matter of L.A.A.No.536 of 2014. Among them,

Ext.A1 is a sale deed dated 19.06.2000. That was a sale deed in respect of a land measuring 81 square meters, which is approximately 2 cents. The land value shown in the document is Rs.40,000/-. If one goes by the said document, the land value would come to Rs.49,382/- per Are. Ext.A2 is a sale deed dated 16.7.2001 in respect of a land measuring 1.41 square meters, which is approximately 3 cents. The total sale value shown the document is Rs.60,000/-. If one goes by the said document, the land value would come to Rs.42,553/- per Are. The learned counsel for the appellant submitted that the lands involved in Exts.A1 and A2 and the acquired lands are not comparable. It was also pointed out by the learned counsel that the said documents are post notification documents and the same, therefore, cannot be relied on for the purpose of fixing the value of the acquired lands. Further, in order to sustain the land value fixed by the Land acquisition officer, the learned counsel for the appellant

placed reliance on the land value shown in Ext.R3 sale deed marked in LAR No.239 of 2006. Ext.R3 is a sale deed executed on 13.02.1997 in respect of an item of land measuring 17.4 Ares and the sale consideration shown therein is Rs.10,000/-. If one goes by the said document, the land value would come only to Rs.232/- per Are.

6. It is trite that post notification instances

cannot be taken into consideration by the reference court for fixation of the land value (See Maya Devi State of Haryana (AIR 2018 SC 645). Exts.A1 and A2 documents cannot, therefore, be relied on for the purpose of determining the land value of the acquired lands. If one eschews Exts.A1 and A2, there are no other materials in favour of the claimants. As noted, the basic document and Ext.R3 relied on by the requisitioning authority would only indicate that the land value fixed by the Land acquisition officer is more or less the land value prevailing in the locality at the relevant time. As noted, the land value fixed by the Land Acquisition Officer would come only to Rs.327.80 per cent. Of

course, the land value has to be fixed with reference to the date of the notification, viz, 10.10.1999. It is difficult to believe that land was available in the State during 1999 at the aforesaid rate. Although Exts.A1 and A2 being post notification sale deeds

cannot be relied on for the purpose of fixing the land value of the acquired lands, as noted, the land values shown in the said documents which were executed after a couple of years are almost 50 times of the land value assigned by the Land Acquisition Officer for the acquired lands. As such, if the land value shown in the basic document and Ext.R3 does not reflect the true consideration passed between the parties, grave prejudice would be caused to the claimants, if the references are disposed of on the basis of the said documents. In the circumstances, I am of the view that these matters have to go back for fresh disposal after affording the claimants a further opportunity to adduce evidence. In the result, the land acquisition appeals are allowed and the references are remitted to the court below for fresh disposal after affording the parties a further opportunity to adduce evidence. Since the matters are remitted, registry is directed to refund the court fee paid on the memoranda of appeals. All the interlocutory applications in the appeals are closed.

Sd/- P.B.SURESH KUMAR JUDGE vv

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