

K.S. SANJEEV (DEAD) BY LRS. ETC. ETC.

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v.

STATE OF KERALA AND ANR.

(Civil Appeal Nos. 3610-3612 of 2007)

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JANUARY 07, 2016

[KURIAN JOSEPH AND ROHINTON FALI NARIMAN, JJ.]

Land Acquisition Act, 1894: Compensation – Enhancement of – Land Acquisition Officer awarded compensation Rs.11000 per cent – Reference Court ignored the document (A-4) relied upon by the appellant-land owner and refused enhancement of compensation – Property covered by A-4 document was sold for R.17250 per cent on 27.10.1986 – The instant s.4(1) Notification was issued on 3.2.1987 – Held: There was no justification for not taking into consideration the said document for fixing the land value – A-4 land was in Panchayat area whereas the acquired land was in Municipal area and was also abutting the M.C. road – Appellant entitled to land value for the acquired land fixed @ Rs.17250 per cent and also entitled for other statutory benefits in terms of the Act.

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3610-3612 of 2007.

From the Judgment and Order dated 07.04.2003 of the High Court of Kerala at Ernakulam in L.A.A. No. 916, 942 of 1997 and 347 of 1998

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Civil Appeal No. 3613 of 2007.

Romy Chacko, Adv. for the Appellants.

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M. T. George, Ms. Prerna Chaturvedi, G. Prakash, Jogy Scaria, Vishnu Shankar, M. S., Sriram Prabhat, M. P. Vinod, Advs. for the Respondents.

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A The Judgment of the Court was delivered by

KURIAN, J.

Abatement is set aside.

Delay in filing substitution application is condoned.

B Application for substitution not opposed and is, accordingly, allowed.

1. The short question to be decided is whether the appellants are entitled for enhanced compensation in respect of their acquired land and covered by LAR 31/1990 on the file of Principal Sub Judge, Kottayam. The Land Acquisition Officer awarded compensation of Rs.11,000/- per cent. The Reference Court declined to grant any enhancement though, the appellants relied on A4 and A14 documents. A4 land abutting M.C. Road is in Panchayat area whereas the acquired land is in the Municipal area, Kottayam town. Both are in close proximity, it is not disputed. A14 is a letter issued to the Department of Telecommunications, inter alia, stating that the Department is not interested in the property as the value fixed by the District Collector is Rs.27500/-. It seems from the record that the Department declined to respond to the aforesaid letter on the ground that the value of the land was very high.

2. Be that as it may, before us, the learned counsel for the appellants has placed reliance only on A4 land. It is not in dispute that the property covered by A4 document was sold for Rs.189750/- (Rs.17250/- per cent) on 27.10.1986. The date of Section 4(1) Notification in the case before us is 03.02.1987. We see no justification as to why the said document should not be taken into consideration for fixing the land value. A4 land is in Panchayat area whereas the acquired land is in Municipal area and it is also abutting the M.C. Road. Southern boundary of the property is river. The claim was in fact for Rs. 75,000/- per cent.

3. Mr. M.T. Goerge, learned counsel for the State submits that the acquired land is wet land. Records show that the acquired land is not wet land but reclaimed dried land, though lying below the road level, as can be seen from the finding of the High Court.

4. The High Court declined to consider A4 on two grounds (1) The original owner of the land (since deceased) when examined before the Reference Court was not truthful in the sense that according to him

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A4 land did not have road frontage, which no doubt is factually false. (2) He claimed costs for the retention wall on the riverside boundary, despite the fact that the same had been put up at Government expense. This conduct of the witness would only show that he was a greedy person at the worst. Obviously he made an attempt to claim more value than A4 deposing that A4 did not have road frontage and yet Rs.17,250/- was the centage value. But that is not a ground for discarding A4. If the land is otherwise comparable, merely because the witness was not factually correct on description, the evidence cannot be discarded. In fixing the land value, body language of the witness or his conduct in Court are all not really relevant. The fixation is mainly based on the factual position as revealed from the documents.

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5. Therefore, we are of the view that the appellants shall be entitled to land value for the acquired land fixed at Rs.17250/- per cent and they are also entitled for other statutory benefits in terms of the Land Acquisition Act 1894.

6. Appeals are allowed accordingly. No costs.

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Devika Gujral

Appeals allowed.