

IN THE COURT OF THE ADDL. DISTRICT JUDGE-II, THIRUVANANTHAPURAM
STATEMENT IN LAR. 29/2019

1.	Purpose of acquisition	Widening of Karamana-Kaliyikkavila National Highway (Stretch 3 from pravachambalam to Balaramapuram). Acquisition of 02.13 Are of land comprised in Re. Sy. No. 238/2 (LA Sub division No. 25) in Block No.13 of Pallichal Village in Neyyattinkara Taluk, Thiruvananthapuram District.
2.	Date of 4(1) notification	22..10..2013
3.	Date of taking possession	04..02..2019
4.	Date of award	15..06..2017
5.	Compensation awarded by the LAO	Rs.32,09,593/-
6.	The rate at which compensation is awarded	Rs.4,90,766/- Per Are
	i. Land Value	-
	ii. Building Value	-
7.	Whether the court has enhanced the compensation or not?	Yes, Rs.24,53,830/- Per Are
8	Whether the court has enhanced the compensation for the relevant break up figure.	Land value of 2.13 ares of land @ Rs. 24,53,830/- per Are – 52,26,657.9 (a) 1.2 factor- 62,71,989/- (b) Value of improvements- Nil (c) Value of Structures- Rs. 2,50,000/- (d) Total -65,21,989/- (e) Solatium @ 100% =Rs. 1,30,43,978/- (f) 12% Increase from 9.1.14 to 15.6.17 for 1254 days – Rs.21,54,814/- Total = Rs.1,51,98,793/- Minus already Paid – 32,09,593/- Balance to be paid - 1,19,89,200/-

A.S. Mallika,
Additional District Judge – II.

**IN THE COURT OF THE ADDL. DISTRICT JUDGE-II,
THIRUVANANTHAPURAM**

PRESENT : SMT. A.S. Mallika, ADDL. DISTRICT JUDGE – II

Tuesday, 23rd day of November, 2021/ 2nd Agrahayana 1943

L.A.R No.29/2019

(L.A.C No.639/2015 of the Special Tahsildar, Special LA unit Collectorate and Special Tahsildar LA, International Airprt, Thiruvananthapuram.)

U/s. 64 of RFCTLARR Act, 2013

Claimants:-

1. Ahammed Khan, S/o Sayed Muhammed
(late) Medayil House Balaramapuram
P.O., Thiruvananthapuram.
2. A. Sajjad, S/o Ahammed Khan, Medayil
House Balaramapuram P.O.,
Thiruvananthapuram.
3. A. Firoz, S/o Ahammed Khan, Medayil
House Balaramapuram P.O.,
Thiruvananthapuram.
4. A. Sulfikkar, S/o Ahammed khan,
Medayil House Balaramapuram P.O.,
Thiruvananthapuram.

By Advocate. B. Hareendran

Respondents:-

1. State of Kerala represented by the
District Collector, Collectorate,
Thiruvananthapuram.
2. The Executive Engineer, PWD
National Highway Division,
Thiruvananthapuram.

(By Addl. Govt. Pleader Sri. N.C.Priyan)

This reference having been finally heard on **26..10..2021** and the Court on **23..11..2021** delivered the following:-

JUDGMENT

This reference relates to the acquisition of 02.13 Ares of land comprised in re-survey No. 238/2 (LA Sub Division No.25) in block No.13 of Pallichal village in Neyyattinkara Taluk, Thiruvananthapuram district in connection with the widening of Karamana – Kaliyikkavila National Highway (stretch 3, from Pravanchambalam to Balaramapuram).

2. In this case notification under S. 4(1) of the Land Acquisition Act, 1894 was published on 22.10.2013 and the last date of publication was on 09.01.2014. Award has been passed on 15.06.2017 as per the provisions contained in S.24 of the Right to Fair Compensation, Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 by applying the provisions under the new Act regarding the determination of compensation. The land has been taken into possession on 04.02.2019.

3. In response to the award enquiry notice under S. 9(3) of the Land Acquisition Act, one Sajjad appeared and produced gift deed No.566/1965 of SRO, Thiruvallam. Land value has been fixed at Rs.4,90,766/- per Are for 'A' category after considering the importance of the locality and prevailing market price of lands at the time of S. 4(1) notification. The land value has been

approved by the District Collector as per the proceedings dated 16.04.2015. As per the gift deed No. 566/65 of SRO, Thiruvallam, Pathummal Beevi, D/o Muhammed Pousikannu, Kadayaravilakathu Veedu, Balaramapuram has got an extent of 3.6 Ares of land in survey No. 455/14B of Pallichal village. Pathummal Beevi is no more. As per the Transfer of Registry by succession effected by the Village Office, Balaramapuram vide proceedings dated 19.10.2015, Ahammedkhan, husband of Pathummal Beevi, Medayil House, Balaramapuram and his children A. Sajjad, A. Firoz, A. Sulfikkar are the legal heirs of Pathummal Beevi. As per thandapper account No. 15500 of Pallichal village an extent of 3.20 Ares of land in re-survey No.238/2 of block No.13 stands registered in the name of Ahammed Khan, husband of Pathummal Beevi, Medayil House, Balaramapuram and his children A. Sajjad, A. Firoz and A. Sulfikkar. The land is in their possession. No other persons came forward claiming compensation for the land or challenged the title of land under acquisition. Since the awardees have equal right over the land under acquisition, award was passed to apportion the compensation equally among them and the amount of Rs.36,50,187/- to be paid at the rate of Rs.9,12,547/- each to Sri. Ahammed Khan, A. Sajjad, A. Firoz and Rs.9,12,546/- to A. Sulfikkar. Since at the time of taking possession of the land under acquisition it was noticed that some immovable items from the building situated in the

said land were removed by the owner. So the award amount already calculated was re-calculated on the basis of fresh valuation certificate issued with respect to the valuation of structures revised to as Rs.1,34,917/- and Rs.32,09,593/- was awarded as compensation and it is apportioned equally at the rate of Rs.8,02,399/- to the said persons. The amount was credited to their respective bank accounts on 16.04.2019. On 27.04.2019 Ahammed Khan along with three others filed application for reference under s.64 of the RFCT LARR Act, 2013. In this circumstance the reference is made for adjudication under S.65 of the RFCT LARR Act,2013.

4. In response to the notice from this authority it is reported that 1st claimant Ahemmed Khan is no more and the claimants 2 to 4 appeared. Claimants 2 to 4 filed written statement contending as follows :

5. The respondents acquired landed properties to the extent of 2.13 Ares (5.261 cents) comprised in re-survey No.238/2, block No.13, LA Sub Division No.25 of Pallichal village and a portion of the commercial building, compound wall, gate and other structures situated therein acquired for the widening of the National Highway. The respondents undervalued the acquired land, portion of two storied commercial building, other building, bore well, compound wall, gate and other structures and trees without any basis. The land value fixed by the Land Acquisition Officer is too low. They have fixed

the value without considering the potentiality and importance of the acquired land. The acquired properties are situated at Balaramapuram junction, adjacent to Thiruvananthapuram – Neyyattinkara National Highway. It was not possible to purchase landed property there below Rs.1 crore per cent in the locality on the date of S.4(1) notification. So many public and private institutions are situated near to the land. So many commercial establishments, educational institutions, revenue offices, police station etc. also situate near to the acquired land. Proposed Vizhinjam harbor is also near to the acquired land. The respondents have not considered these factors while fixing the land value. The respondents have not selected any sale deed or judgment as basic document for fixing the land value of the acquired land. The respondents allowed only Rs.1,34,917/- for the acquired portion of the three storied commercial buildings, compound wall, gate, bore well and other structures. Atleast Rs.5 lakhs may be allowed for the said acquired structures. The additional claimants met Rs.2 lakhs for shifting the house hold items that also is to be obtained. So it is prayed to allow the land value at the rate of Rs. 1 crore per cent for 5.261 cents of property acquired, Rs.1 crore for the acquired portion of the three storied commercial building, compound wall, gate, bore well and other structures and Rs.2 lakhs for shifting expenses with 100% of land value and structure value as solatium, 12% additional increase from the

date of notification till the date of award, 9% interest for the entire amount for one year and 15% p.a interest for the period expiring the above one year.

6. Points for determination are :

1. Whether the claimants 2 to 4 are entitled for the land value awarded by the Land Acquisition Officer ?

2. Whether the claimants 2 to 4 are entitled for enhancement of compensation towards land value ?

3. Whether the claimants 2 to 4 are entitled for enhancement of value for the structures in the property acquired ?

4. Whether the claimants 2 to 4 are entitled for other statutory benefits as per the provisions of RFCT LARR Act, 2013 ?

5. If so, what is the quantum of compensation the claimants 2 to 4 are entitled to as enhanced value of land and structures ?

6. Regarding Order ?

7. On the side of the claimants, AW1 was examined and Exts.A1 to A4 & C1 were marked. On the side of Land Acquisition Authority R1 to R4 were marked.

8. **Point No.1** :- It is not in dispute that the 1st claimant is no more and the claimants 2 to 4 are the legal heirs. 1st claimant was also the legal heir of deceased Pathummal Beevi, who was the owner of the property under

acquisition. As per the case of the claimants and the Land Acquisition Officer the acquired land belonged to one Pathummal Beevi as per Gift deed No. 566/1965 of SRO, Thiruvallam and as per that document 3.6 Ares of land in Survey No.455/14B of Pallichal village has been obtained by the said Pathummal Beevi and the claimants 1 to 4 are the legal heirs of deceased Pathummal Beevi. So as there is no dispute that the claimants 1 to 4 are the legal heirs of Pathummal Beevi and as the 1st claimant is no more, the claimants 2 to 4 who are the legal heirs of the 1st claimant are entitled to get the compensation awarded by the Land Acquisition Officer and also for the enhanced compensation if any to be awarded in this reference in equal shares. So point No.1 is found accordingly.

9. **Point Nos. 2 to 4** :- As per the award of the Land Acquisition Officer the value for 2.13 Ares of land acquired was fixed at the rate of Rs.4,90,766/- per Are. But according to the claimants, the value of the acquired land would have fetched more value than fixed by the Land Acquisition Officer and as on the date of S.4(1) notification it would have fetched a value of Rs.1 crore per cent by considering the potentiality and commercial importance of the land under acquisition. It is submitted by the learned counsel for the claimants that there is a three storied building in the land under acquisition and the portion of the said building has been

destructured by the acquisition of the property. No value has been awarded to the structures by properly valuing the building and structures therein. The claimants 2 to 4 sought for Rs.1 crore for the acquired portion of the three storied commercial building and other structures therein in the acquired land. On going through the mahazar prepared by the Revenue Inspector on 04.02.2019 at the time of taking the property into possession it is seen reported that the land under acquisition situate on the side of Karamana – Kaliyikkavila road at a distance of about 800 metre from Mudavoorpara junction and land acquired is 3.20 Ares in re-survey No. 238/2 in block No.13 of Pallichal village, in which there was no cultivation, but there was a three storied building with compound wall therein. It is also reported that gate, grill etc. were seen removed from the compound wall. Admittedly the acquired property was included in A category for fixing the land value by the District Collector as per Ext.R4 proceedings of the District Collector. The property is lying on the side of Karamana – Kaliyikkavila NH road. The properties situate near to Pravachambalam junction and Balaramapuram junction are included in 'A' category on the basis of the commercial importance and potentiality of the above lands. As per Ext.R4 proceedings the land value of the properties included in A category was fixed as Rs.4,90,766/- per Are after considering various parameters for fixing the value of acquired lands. Admittedly the

property under acquisition herein situate near to Mudavoorpara junction in which a three storied commercial building was situated and wherein they were conducting business.

10. The learned counsel for the additional claimants 2 to 4 filed argument note stating the commercial importance etc of the property under acquisition and also the criteria to be adopted for fixing the land value of the property under acquisition. It is stated in the argument note that the acquired land situate near to Balaramapuram junction which is a commercially important area and somany business establishments, commercial establishments, banks etc. situate in and around 50 metres of the acquired land and Thampanoor and Eastfort bus stations situate hardly at a distance of 7 kilometres and Vizhinjam International Port situate within a distance of 4 kilometres from the acquired land. According to him, the Land Acquisition Officer has not selected any sale deeds prior to the acquisition as a basic document for fixing the land value. The claimants produced judgments of IInd Additional Sub Court, Thiruvananthapuram in some land acquisition cases pending before that Court for proving that their property would have fetched more value than that fixed by the Land Acquisition Officer. According to them, the properties mentioned in the above land acquisition cases are situated in the area where there is not much commercial importance as far as

the property under acquisition in this case is concerned. But for the said properties more value has been fixed by the Court and that was approved by the Hon'ble High Court of Kerala also. It was further stated that the commissioner appointed for ascertaining the nature of the property under acquisition and also its commercial importance has compared the properties included in those land acquisition cases before the Sub Court with the property under acquisition. It was specifically stated in the commission report that the property in this case is having more commercial importance than that of the properties involved in those land acquisition cases. So according to the claimants, this Court can fix an amount of Rs. 91,00,000/- per cent for the land value for the property under acquisition.

11. Ext.A1 is the certified copy of the common judgment in LAR No. 934/2009, 944/2009, 945/2009, 957/2009 and 48/2010. The properties under acquisition in the above cases were acquired under the same notification. Those properties situate in Vanchiyoor village, Thiruvananthapuram Taluk were acquired for widening the Pattoor-Choorakattupalayam road. In that case by considering the commercial importance and the distance from the heart of the city, the Court has awarded a huge amount than that fixed by the Land Acquisition Officer for those properties. Ext.A2 is the judgment of the Hon'ble High Court of Kerala in

Land Acquisition Appeal Nos.680/2014, 618/2014, 644/2014 and 615/2014 against the judgment passed in Ext.A1 cases and Hon'ble High Court of Kerala has upheld the award passed by the IInd Additional Sub Court, Thiruvananthapuram in Ext.A1 cases. Ext.A3 is the judgment of the IInd Additional Sub Court, Thiruvananthapuram in LAR 435/2009, 127/2010, 128/2010, 362/2010, 444/2010, 455/2010, 463/2010, 465/2010, 470/2010, 471/2010, 478/2010, 481/2010, 485/2010 & 546/2010. In the year 2014 the properties involved in those cases were acquired for widening the Pattoor-Choorakattupalayam road. In that case also a huge amount was awarded as compensation by the Court than that fixed by the Land Acquisition Officer. According to the learned counsel for the claimants, in Ext.C1 commission report, the commissioner has specifically stated that the property acquired in LAR 444/2010 is an identical land as compared to the land under acquisition in those cases after visiting the property involved in the said case. The Additional Government pleader submitted that the Commissioner has stated in Ext.C1 that the property in LAR No. 444/2010 and the property in this case are identical lands only on the ground that both properties are situated on the side of NH road. According to the learned counsel for the claimants, the property in LAR No. 444/2010 was acquired as per the notification dated 27/11/2007. But the date of notification in the instant case is after 6 years

that is on 22/10/2013. So the land value would have increased @ 10% - 20% annually on cumulative basis. So as the land value fixed in Ext.A3 case is Rs.27,50,000/- for one cent of property, there was a hike of 250% over as land value for the property in the instant case. So this Court can very well award Rs.91,00,000/- for one cent for the land under acquisition. It was also submitted that though a three-storied building was situated in the property, the Land Acquisition Officer has fixed only meager amount of compensation for the portion of the building acquired. So, the amount of more than one crore is to be awarded as compensation for the acquisition of the commercial building situated in the said property as well as structures such as compound wall, gate, bore well etc.

12. The learned Additional Government Pleader submitted that the land value of the acquired land has been fixed by the Land Acquisition Officer by taking into consideration all the parameters for the computation of compensation such as its commercial importance, potentiality, nature of land etc. and adequate compensation has been awarded for the acquired land. It was also submitted that the documents produced before the Court as Exts.A1 to A3 cannot be relied on by this Court so as to fix the value of the acquired land in view of the fact that those properties are situated very near to the heart of the city and are having more commercial importance. It was pointed

out by the learned Additional Government Pleader that the property in LAR 444/2010 situate very near to Ayurveda college which is in the heart of the city. But the property under acquisition situate in a panchayath area where the value of the property would have been less than that compared to the land situated in the heart of the city. So the judgment in LAR 444/2010 cannot be taken as basic document for fixing the land value of the property under acquisition in the instant case.

13. Based on the above submission on both sides, it is necessary to analyse the evidence adduced in this case in the light of the law laid down by the Hon'ble High Court of Kerala and Hon'ble Apex Court in the matter of fixing the compensation for the land acquired as per the provisions of the Land Acquisition Act and in view of the relevent provisions in RFCT (LARR) Act, 2013. In **2019 KHC 6034 (Wazir and Another Vs. State of Haryana)** the Hon'ble Apex court held that normally the additional component of compensation in terms of S.23(1) of the Land Acquisition Act is granted when the landlord suffers damage as a result of acquisition to the extent that they holding that he is left with lands comparatively diminished in terms of quality and value. On the other hand in a case where a part of the holding is acquired for which appropriate commercial value is awarded rest of the value of the land will not stand diminished in terms of commercial potential. Normally

recourse is to be taken to the mode of determining the market value by providing appropriate escalation over the proved market value of the nearby lands in previous years (as evidenced by sale transactions or acquisitions) where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighborhood. The said method is reasonably safe when they relied on sale transactions or acquisitions precede the subject acquisition only by few years that is upto four or five years, beyond that it may be unsafe even if it relates to a neighboring land. The Hon'ble Court held that primarily the increase in land prices depends on four factors; situation of land, nature of development in surrounding area, availability of land for development in the area and the demand for the land in the area. In rural areas unless there is any prospect of development in the vicinity, increase in prices will be slow, steady and gradual without any sudden spurts or jumps. On the other hand in urban or semi urban areas where the development is faster where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate as compared to rural areas. It was also held that normally recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years as evidenced by sale transactions or acquisitions where there is no evidence of

any contemporaneous sale nearby. The said method is reasonably safe where they relied on sale transactions or acquisitions by only few years that is upto 4 to 5 years, beyond that it may be unsafe even if it relates to a neighbouring land. What may be reliable standard is the gap is of only a few years may become unsafe and unreliable standard where the gap is larger; for example for determining the market value of a land acquired in 1992 adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pit falls. This is because over the course of years rate of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions.

14. In **2008 KHC 5309 (General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jeevanbhai Patel and another)** in that case the Hon'ble Apex court has considered as to how is the determination of market value in the absence of any evidence of comparable sales. In that case the land was acquired in 1994. Relying on rate of compensation awarded in respect of lands of neighbouring villages in the 1986 and 1987 award was passed in that case. The Hon'ble Apex court held that the courts should avoid

determination of market value with respect to subsequent/future transactions. It was also held that increase in market value is calculated with reference to the market value during the immediate precedent years. The appropriate method is to calculate the increase cumulatively and not applying the flat rate.

15. In **2019 KHC 6805 (State of Himachal Pradesh and Others Vs. Kanshi Ram and Others)** it was held by the Hon'ble Apex Court that if no other comparable sales are available in the same village it always open to the reference court to consider sales in the adjoining village during the relevant period. Even otherwise there are other methods of fixing the compensation.

16. In **2005 4 (SCC) 789 (Wiluben Jhalejar Contractor Vs State of Gujrat)** the Hon'ble Apex Court held that the amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time and as well as proximity from situation angle. For determining the market value of land under acquisition suitable adjustment has to be made having regard to the various positive and negative factors viz-a-viz the land under acquisition by placing the two in juxta position. It was also held that market value is ordinarily the price the property may fetch in open market if sold by a willing seller unaffected by special needs of a particular purchase.

17. In **2018 KHC 7372 (Executive Engineer Karnataka Water**

Supply and Drainage Board v. Anjonappa and Others) the Hon'ble Apex court observed as follows: “While hearing the learned counsel for the parties we are of the opinion that the land abutting the road has higher value as compared to the land which is not abutting the road as the land abutting the road is capable of being used for residential as well as commercial purposes. However in the instant cases it is apparent that in the award that has been relied upon by the High Court the notification was issued on the same date and the award was not based upon the market value of the property. The value of the land had been determined by method of capitalization of the profits of 10 years yield. Since the capitalization of profit method based upon 10 years yield was adopted, in such a factual matrix the situation of the land whether it was abutting the road or whether it was away from the road would not make any difference. The award was not based upon market value of land. In the absence of evidence with respect to market value of acquired land the capitalization of profit method would have been resorted to and that has been precisely done by the High Court”.

18. So in view of the above judicial pronouncements as regards the fixing of compensation of land acquired, the evidence adduced in this case is to be analysed.

19. In Ext.C1 commission report it is reported that the property under

acquisition situates at a distance of about 13 kilometers away from District Court premises Thiruvananthapuram. It is further reported that the property situates at Mudavoorpara near Balaramapuram junction adjacent to the Thiruvananthapuram-Neyyattinkara-Kaliyikkavila NH-47 road which is a part of said National Highway road. Further it is reported that the said property situate in a commercially important area and near to the acquired land Government High School, Post Office, State Bank of India, Union Bank of India and other banks and so many shops and other commercial establishments are situated. It is also reported that the acquired property in LAR 29/2019 that is the instant case and the acquired property in LAR 444/2010 are identical land and both are situated in a commercially important area. As per the said report, the acquired property in LAR 444/2010 had a walkable distance from Thiruvananthapuram KSRTC Bus Stand, Thiruvananthapuram Railway Station etc. and the said land is situated on the western side of the above NH-47 road. The said property situate at Chenthitta junction and it has direct access to Neyyattinkara NH road, Aryasala road and Power House road Thiruvananthapuram. So from the above report itself it is seen that both properties situates not in the same area having similar importance. The property in the instant case is far away from Thiruvananthapuram city and as stated above it is at a distance of about 13

kilometres from Vanchiyoor Court premises. On the other hand, the property acquired in LAR 444/2010 situated in the heart of Thiruvananthapuram city which is at a walkable distance from Thiruvananthapuram KSRTC Bus stand and Railway station. So both the said properties cannot be considered as identical land having similar importance and potential as reported in Ext.C1 commission report. So Ext.A3 judgment cannot be taken as the basic document for computing the compensation for the land value of the property under acquisition. The properties in Ext.A1 judgment that is LAR 934/2009 of IInd Additional Sub Court, Thiruvananthapuram is lying on the said side of Thakaraparambu road which starts from MG road leading to Pazhavangadi Ganapathy Temple, Sreevaraham Temple etc. and in Ext.C1 it is further reported that the acquired land in LAR 934/2009 and LAR 444/2010 are almost same as regards the commercial importance, potential etc. of the properties concerned. So from the above it is seen that the properties as per Ext.A1 also situates in the heart of the city and so those properties and the property herein cannot be considered as the properties having identical importance and similarity in nature as stated in Ext.C1 commission report. So, the judgment in Ext.A1 cannot be taken as a basic document to fix the value of the property under acquisition.

20. No comparable sale deeds are produced before the Court on the

side of the claimants to prove the market value of the property under acquisition as on the date of the notification. So no basic documents are there to fix the value of the property under acquisition before the court.

21. The claimants have produced Ext.A4 judgment for showing that for the land acquired under the same notification the land value was fixed at the rate of Rs.43,07,062/- per Are by this court in LAR 25/17. Actually the said property situate near to Ayurveda College abutting Ayurveda College - Kunnumpuram road which is 15 metres away from Ayurveda College junction. In this case award was passed on 22.01.2016 much after the date on which LARR Act came into force for getting additional compensation under the new Act. That property is situated in the heart of the Thiruvananthapuram city and not in the area where the property under acquisition in this reference is situated. That also cannot be taken into consideration to fix the market value of the property under acquisition. The property in this case was included in A category and the market value is fixed as Rs.4,90,766/- by considering the potential and importance of the said property. Ext. R1 mahazar would show that in the property under acquisition there was a three storied building and a portion of the said three storied building, gate, grill, compound wall etc. were acquired. As per Ext. R4 proceedings of the District Collector the property situate on the side of Karamana – Kaliyikkavila road and near to

Mudavoorpara junction, which is near to Balaramapuram junction. So it has come out in evidence that this property is situated in a commercially important area having high potential and there are so many business establishments, commercial establishments, banks, Government institutions etc. are situated in the said area. But the Land Acquisition Officer has fixed only an amount of Rs.4,90,766/- per Are as the market value of the property that according to me is insufficient and inadequate as far as the high potential and commercial importance of the land under acquisition is concerned. As it is seen that a three storied commercial building has been situated in the said property and there were somany business establishments there, it can be concluded that it was situated in a prime locality as it is situated at a distance of about 800 metres from Mudavoorpara junction as per Ext.R1 mahazar and Ext.R4 proceedings of the Land Acquisition Officer. Only an amount of Rs.1,34,917/- has been given as value of the structures in the said property. That also according to me is too inadequate and improper because of the reason that a portion of the three storied commercial building, its compound wall etc. were acquired and the land owners have to do proper maintenance and reconstruction of those structures. It is reported by the Revenue Inspector that at the time of taking the said structures and property into possession it was seen that a gate and grill on the compound wall were seen removed. No

valuation statement with respect to the building and other structures were also produced along with the proceedings of the Land Acquisition Officer and the same was not marked in evidence in this case also. It is not discernible as to how the value of the structures was fixed by the Land Acquisition Officer from the records available before the court. As it is reported that a portion of the three storied commercial building, compound wall etc. were acquired, the said structures would have fetched more value than that fixed by the Land Acquisition Officer. So by considering all the inputs and also by considering the situs of land, its distance from the main junction and from Thiruvananthapuram city and also the other commercial importance as well as its potential, I am of the view that 5 times hike can be given to the market value fixed by the Land Acquisition Officer as far as the property under acquisition is concerned. No other documents are available on either side to prove the exact value of the structures in the land under acquisition. So by considering the fact that it is a three storied commercial building and a portion of the same has also been acquired, value of the structures can be fixed as Rs.2,50,000/-. Thus by considering all the above aspects as stated earlier, the market value of the property is fixed as Rs.4,90,766 X 5 for one Ares of property. That be so, the claimants are entitled to get compensation as per the table given below:

Value of one Are 4,90,766 X 5	Rs.24,53,830
Land value of 2.13 Ares of land @ Rs.24,53,830/- per Are	Rs.52,26,657.9
(a) 1.2 factor	Rs.62,71,989
(b) Value of Improvements	---
(c) Value of structures	Rs.2,50,000
Total	Rs.65,21,989
(e) Solatium @ 100%	Rs.1,30,43,978
(f) 12% increase from 09.01.2014 to 15.06.2017 for 1254 days	Rs.21,54,814
Total	Rs.1,51,98,793
Minus already paid	Rs.32,09,593
Balance to be paid	Rs.1,19,89,200
Rounded to	Rs.1,19,89,200

In the result, the reference is answered as follows:-

- a. Claimants are entitled to get Rs.1,19,89,200/- towards the enhancement in land value.
- b. Claimants are entitled to get 9% interest from 15.06.2017 for one year and thereafter 15% interest till payment.
- c. Claimants are entitled to get proportionate costs.

Dictated to CA, transcribed by her, corrected by me and pronounced in Open Court on this, the 23rd day of November, 2021.

Sd/-
A.S. Mallika,
Additional District Judge – II.

APPENDIX :-**Exhibits for the Claimants:-**

- A1 31..07..2013 Certified copy of Common Judgment in LAR 934/09, 944/09, 945/09, 957/09 and 48/10 of II Addl. Sub Court, Thiruvananthapuram.
- A2 14..11..2016 Copy of Judgment in LA A No..680/14 of Hon'ble High Court of Kerala.
- A3 13..03..2014 Certified copy of Common Judgment in LAR 435/09, 127, 128, 362, 444, 445, 463, 465, 470, 477, 478, 481, 485, 546 of 2010 of II Addl. Sub Court, Thiruvananthapuram.
- A4 30..10..2020 Certified copy of Judgment in LAR 25/2017 of II Addl. District Court, Thiruvananthapuram.
- A5 22..02..1965 Original Gift deed No. 566/1965 of SRO, Thiruvallom.
- A6 12..08..2020 Tax Receipt No.0613711 of Balaramapuram Village.

Exhibits for the Respondent:-

- R1 - Mahazer.
- R2 - Valuation Statement.
- R3 - Sketch.
- R4 - Award note.

Court Exhibit:-

- C1 11..02..2021 Commission Report.

Witness for the Claimant:-

AW1 06..09..2021 Sajjad A

Court Witnesses:-

CW1 06..09..2021 Resmi Mohan

Id/-

ADDL. DISTRICT JUDGE-II.

(True Copy)

(By Order)

SIND(3)Comp: F.C.S.

SHERISTADAR

Copy of Judgment in LAR No.29/2019

Dated: 23..11..2021

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