



LA.APP. NO. 25 OF 2018

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2025:KER:28175

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947

LA.APP. NO. 25 OF 2018

AGAINST THE JUDGMENT AND DECREE DATED 28.05.2015 IN LAR
NO.149 OF 2011 OF SUB COURT,ATTINGAL

APPELLANTS/CLAIMANTS:

- 1 CHANDRIKA AMMA @ CHANDRIKA DEVI
SMITHA BHAVAN, KOITHOORKONAM
P.O., ANDOORKONAM, THIRUVANANTHAPURAM.
- 2 C.G.SMITHA
SMITHA BHAVAN, KOITHOORKONAM
P.O., ANDOORKONAM, THIRUVANANTHAPURAM

BY ADV SRI.K.RAJESH KANNAN

RESPONDENTS/RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR, CIVIL
STATION, KUDAPPANAKUNNU, THIRUVANANTHAPURAM 695005
- 2 THE CHIEF EXECUTIVE OFFICER
TECHNOPARK, KAZHAKKUTTAM, THIRUVANANTHAPURAM -695582.

BY ADVS.

SENIOR GOVERNMENT PLEADER SRI.T.K.SHAJAHAN FOR R1
SMT.K.V.RASHMI, SC, FOR R2

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
02.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**DR. A.K.JAYASANKARAN NAMBIAR
&
EASWARAN S., JJ.**

LA.APP. NO. 25 OF 2018

Dated this the 2nd day of April, 2025

JUDGMENT

Easwaran S., J.

This appeal arises from the judgment and decree of the Sub Court, Attingal, in L.A.R No.149 of 2011.

2. The brief facts necessary for the disposal of this appeal are as follows:

An extent of 8.85 Ares and 5.75 Ares of property in Survey No.80/4 of Andoorkonam Village was acquired for the purpose of Phase IV development of the Technopark, Thiruvananthapuram. Notification under Section 4(1) of the Land Acquisition Act was issued on 05.12.2006. The award was passed on 16.01.2010. The land was taken possession on 26.03.2010. The Land Acquisition Officer awarded compensation at the rate of Rs.34,284/- per Are. The Land Acquisition Officer categorised the land under Category No.9 and fixed the land value. Dissatisfied with the market value fixed by the Land Acquisition Officer, the claimants sought reference under Section 18 of the Land Acquisition Act. On behalf of claimants, Exts.A1 to A7 documents were produced. Exts.B1 and B2 documents were produced on the side of the respondent State. The Advocate Commissioner was taken out for local inspection and filed a report as Ext.CI and the sketch prepared by the Advocate Commissioner were marked as Ext.C1(a). The 1st claimant was examined herself as AW1, and the Advocate Commissioner was examined as AW2. In addition to the claim for enhancement, the claimants



also questioned the categorisation by the Land Acquisition Officer by categorising their property under Category No.9. According to the claimants, the property ought to have been categorised under Category No.7, which is the land adjacent to the road. In support of their claim for change of the category, the claimants relied on the report of the Advocate Commissioner as well as the Ext.P2 Group Sketch prepared by the Land Acquisition Officer at the time of acquisition. The Reference Court, relying upon the report of the Advocate Commissioner, rejected the claim for changing the category and fixed the category, and confirmed the categorisation done by the Land Acquisition Officer. However, insofar as the enhancement of the market value is concerned, the Reference Court relied on Ext.A3 judgment in L.A.R No.26 of 2011 and connected cases and granted 100% enhancement. Thus, the claimants are before us in this appeal,

3. Heard Sri.K.Rajesh Kannan, the learned counsel appearing for the appellants, and Sri.T.K.Shajahan, the learned Senior Government Pleader appearing for the State, and Smt.K.V.Reshmi, the learned Standing counsel appearing for the Requisition Authority.

4. On consideration of the rival submissions raised across the bar, we are of the view that the appellants are entitled to succeed for following reasons. Pertinently, it must be noted that the claim for a change in the category was not solely based on the report of the Advocate Commissioner. We find that it was the solemn duty of the Land Acquisition Officer to have classified the property correctly based on its lie and nature. We cannot brush aside the contention of the appellant that even going by Ext B 2 group sketch prepared by the Land



Acquisition officer, the category of the land would be Category 7 instead of 9.. When the lie of the property, as revealed from the group sketch Ext.B2, is examined, it becomes explicitly clear that the property in Sy.No.80/4 is situated adjacent to the graveled road. Therefore, the categorisation done by the Land Acquisition Officer is *per se* incorrect.

5. It is true that the Advocate Commissioner when examined in the box could not locate the property correctly and this discrepancy in the evidence prompted the Reference Court to conclude that the categorisation done by the Land Acquisition Officer was correct. To reach the aforesaid conclusion, the boundaries as described under Ext.A4, which is the title document of the appellants were also relied upon by the Reference Court. But, we noticed the title document was executed on 29.09.2004, whereas the notification under Section 4(1) was issued on 05.12.2006, and that, further, the sketch prepared at the time of acquisition for identifying the property by the Land Acquisition Officer itself shows the existence of the graveled road near the property which would entail necessary consequences

6. On a cumulative consideration of the facts presented before the Court, we are of the view that the categorisation done by the Land Acquisition Officer is incorrect, and the claimant is entitled to have the land categorised as under Category No.7. We find that for Category No.7, the Land Acquisition Officer had awarded an amount of Rs.43,195/- per Are and giving 100% enhancement as done by the Reference Court in Ext.A3 judgment, the land value will be Rs.86,390/- per Are. Therefore, we are of the view that the appellants are entitled to succeed in this appeal. Accordingly, we allow the appeal and



modify the judgment and decree of the Reference Court in L.A.R.No.149 of 2011 and refix the category of the land of the appellants to Category No.7, and accordingly, fix the market value at Rs.83,390/- per are. The claimants will be entitled to all statutory benefits and proportionate costs in the appeal. While calculating the interest for the compensation to be awarded to the appellants, the appellant will not be entitled to interest for a period of 703 (477 days filing delay and 226 days representation delay) days, which is the delay in presenting the appeal before this Court.

Sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-

EASWARAN S.
JUDGE

mns



APPENDIX

PETITIONERS ANNEXURES:

ANNEXURE-A1-TRUE COPY OF THE DISCHARGE SUMMARY ISSUED FROM APOLLO SPECIALTY HOSPITAL, CHENNAI TO MR. GEANESH KUMAR

ANNEXURE-A2-TRUE COPY OF THE ASSET REGISTER ON 26.11.2016 ISSUED BY STATE PUBLIC INFORMATION OFFICER & SECRETARY, ANDOORKONAM GRAMA PANCHAYATH WITH A COVERING LETTER

RESPONDENTS ANNEXURES:NIL

//TRUE COPY//

P.A TO JUDGE