

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.14080/2000

(From the judgement and order dated 31/01/2000 in LAA 852/99  
of The HIGH COURT OF KERALA AT ERNAKULAM)

KM MOHAMMED HANEEFA & ORS.

Petitioner (s)

VERSUS

STATE OF KERALA

Respondent (s)

( For Final Disposal )  
( With Office Report )

Date : 15/01/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI  
HON'BLE MR. JUSTICE S.N. VARIAVA

For Petitioner (s) Mr.P.Krishnamoorthy,Sr.Adv.  
Mr.Romy Chacko,Adv.  
Mr. Rajiv Mehta.,Adv.

For Respondent (s) M/s John Mathew,Manish Garg,Advs.  
Mr. K.R. Sasiprabhu,Adv.

UPON hearing counsel the Court made the following  
O R D E R

.....L.....I..T.....T.....T.....T.....T.....T.....J..T....R  
.SP2

Leave is granted.

The appeal is allowed in terms of the signed  
order. There shall be no order as to costs.

.SP1

[Naresh Kumar]  
Court Master

[Kanwal Singh]  
Court Master

[Signed order is placed on the file.]

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.PL56  
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CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 453 OF 2002@@  
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[Arising out of SLP(C) 14080/2000]

KM Mohammed Haneefa & Ors. ...Appellants

Vs.

State of Kerala ...Respondent

O R D E R@@  
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L....L....I....T.....T.....T.....T.....T.....T.....T.....J....R  
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Heard the learned counsel for the parties.

Leave is granted.

This appeal is directed against the judgment & order of the High Court of Kerala in LAA No.852/99 passed on January 31, 2000.

The claimants are the appellants. On November 20, 1981 the respondent-State took possession of the land of an extent 0.3181 Hectors in Sy.Nos.79/10,11 and 15 and Sy.No.100/11 in Ceyalmunnaju Village, ('for short the land in question') belonging to the appellants for construction of a Police Station. The notification for acquisition of the land in question was issued under Section 4 of the Land Acquisition Act after about 11 years thereafter in September, 1992. The appellant claimed compensation at the rate of Rs.10,000/- per cent. The Land Acquisition Officer

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awarded compensation at the rate of Rs.2000/- per cent under Award dated February 1, 1995. On the request of the appellants the case was referred to the court of subordinate Judge, Pallakkad in regard to enhancement of compensation under Section 18 of the Land Acquisition Act which was numbered as LAR No.12/95. The appellants in support of his claim for enhanced compensation relied on a sale transaction of land of 10 1/2 cent @ Rs.9,500/- per cent in the vicinity evidence by the sale deed Ext.A-1 dated August 26, 1989. The learned subordinate Judge rejected as dissimilar the sale Exhibit R-I, filed by Land Acquisition Officer in support of the Award, which shows that land was sold under it @ Rs.2,100/- per cent in December 1991. He accepted Exhibit A-I as evidence of comparable sale and having regard to the area and other factors awarded compensation at the rate of Rs.4000 per cent by its judgment dated October 30, 1998. Dissatisfied with the said judgment of the learned subordinate judge the appellants filed appeal, LAA No.852/1999, before the High Court which was dismissed at the admission stage by the order under challenge.

A perusal of the judgment under challenge discloses that the High Court was influenced by the fact that the

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improvements in the area near the land in question, took place subsequent to taking possession of that land, that the learned subordinate Judge did not rely on Exhibit A-I but, nonetheless awarded compensation @ Rs.4,000/- per cent and the additional compensation under sub-section 1A of Section 23 of the Land Acquisition Act and thus the interest of the claimants was amply safeguarded.

For purposes of awarding compensation the Land Acquisition Act has laid down criteria under Section 23 which has to be taken note of and specified the circumstance which need not influence the court in awarding the compensation in Section 24 of the Act. The High Court did not record a finding that the compensation awarded by the reference court represent market value as on the date of Section 4(1) Notification which was a just and proper compensation. It discussed the facts which have taken place after taking possession of the land which was long before Section 4(1) of the Notification which are not relevant under Section 23 of the Act.

Inasmuch as we are of the view that there has been no proper consideration by the High Court in regard to claim of the appellant for enhancement of the compensation and a

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statutory appeal was dismissed in limine at the stage of admission taking note of irrelevant factors, we consider it just and appropriate to set aside the judgment under challenge and remand the case to the High Court for proper adjudication of the claim of the appellants in accordance with law. The appeal is accordingly allowed, the appeal (LAA No.852/99) is restored to the file of the High Court. The High Court will now decide the appeal afresh in accordance with law. There shall be no order as to costs.

.SP1

.....J.  
[ SYED SHAH MOHAMMED QUADRI ]

New Delhi,  
January 15, 2002.@@  
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.....J.  
[ S.N. VARIAVA ]