

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).7132-7133/2012

MARNUKANDI KUNHIRAMAN ETC.

Appellant(s)

VERSUS

STATE OF KERALA &amp; ORS. ETC.

Respondent(s)

O R D E R

The appellants are the land owners. Their land measuring 0.8420 hectares and 0.2430 hectares, respectively was acquired by the State of Kerala for construction of 120 M.V. Diesel Generator Power Plant by the Kerala State Electricity Board at Thalikulathur.

2. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was issued on 17.10.1994 and eventually the Land Acquisition Officer passed the award on 06.02.1999 granting compensation of Rs.9,10,562/- to the 1<sup>st</sup> appellant and Rs.3,63,548/- to the 2<sup>nd</sup> appellant. Both of them filed reference under Section 18 of the Act. The Reference

Court appointed an Advocate Commissioner who submitted a Report to the effect that the acquired land would fetch at least Rs.30,000/- per cent. The Reference Court then passed an award on 07.01.2003 granting compensation @ Rs.18,000/- per cent.

3. The State of Kerala challenged the award of the Reference Court before the High Court. Vide impugned judgment dated 30.06.2010, the High Court has reduced the compensation from Rs.18,000/- per cent to Rs.15,000/- per cent. The only reason assigned by the High Court in its brief order is that by a common judgment rendered by it in L.A.A. No.371/2009 "the value of the land in the same village acquired pursuant to an earlier notification ..." was fixed at Rs.3,500/- per cent. The High Court further opined that "the lands involved in these appeals were inferior in value inasmuch as the Land Acquisition Officer awarded a far lesser value."

4. It is fairly conceded that the common judgment relied upon by the High Court did not pertain to acquisition of land of the appellant's village. That land belonged to some other village, in a different district and was located approximately at a distance of about 150 kms. There was, thus, no similarity in the lands which were subject matter of L.A.A. No.371/2009 on one hand and land of the appellants on the other. The High Court thus fell in error in relying upon a judgment which was

totally irrelevant for the purpose of determination of market value of the land in the present case.

5. There is no other material on record to hold that the market value assessed by the Reference Court @ Rs.18,000/- per cent was in excess or higher than the actual market value. We thus find no valid ground to tinker with the rate of compensation determined by the Reference Court.

6. For the reasons stated above, these appeals are allowed; the impugned judgment dated 30.06.2010 of the High Court is set aside and the appellants are held entitled to the compensation @ Rs.18,000/- per cent, as awarded by the Reference Court, for their acquired land. The appellants shall also be entitled to all the statutory benefits at the abovegranted rate of acquisition. The additional amount of compensation shall be deposited with the Reference Court within eight weeks and the same shall be disbursed to the appellants forthwith. Ordered accordingly.

7. Pending application(s), if any, shall stand closed.

.....J.

[ SURYA KANT ]

.....J.

[ J.K. MAHESHWARI ]

**NEW DELHI;**

**MARCH 22, 2023**

ITEM NO.109

COURT NO.8

SECTION XI-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).7132-7133/2012

MARNUKANDI KUNHIRAMAN ETC.

Appellant(s)

VERSUS

STATE OF KERALA ETC. ETC.

Respondent(s)

Date : 22-03-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Appellant(s) Mr. K. Rajeev, AOR  
Mr. Shinoj K.narayanan, Adv.  
Mrs. Niveditha R.menon, Adv.  
Mr. Aditya Verma, Adv.

For Respondent(s) Mr. P. V. Dinesh, AOR  
Mr. Bineesh K, Adv.  
Ms. Nida K, Adv.  
Mr. Abdulla Naresh, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The Civil Appeals are allowed in terms of the signed order.

Pending application(s), if any, stand disposed of.

(DEEPAK JOSHI)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)

(Signed Order is placed on the File)