

C.A.No. 647 OF 1998
ITEM No.102

Court No. 8

SECTION XIA

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

Civil Appeal No. 647 of 1998

B.Lakshmi Ammal (Dead)

...

Appellant (s)

VERSUS

State of Kerala

...

Respondent (s)

(With office report)

Date : 29/01/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N.VARIAVA

HON'BLE MR. JUSTICE H.K.SEMA

For Appellant (s) Mr. Mathai M.Paikede, Sr.Adv.

Mr. P.I.Jose, Adv.

Mr. K.S.Bhati, Adv.

For Respondent (s) Mr. Ramesh Babu M.R., Adv.

Ms. Anupama Madanan, Adv.

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

Heard learned counsel for the parties for about half an hour.

The Appeal is dismissed in terms of the signed order.

No order as to costs.

Anita

(Jasbir Singh)

Court Master

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 647 OF 1998

B.LAKSHMI AMMAL (DEAD)

...

Appellant (s)

Versus

STATE OF KERALA

...

Respondent (s)

O R D E R

This Appeal is against an order of the High Court dated 9th April, 1997.

Land of the Appellant was proposed to be acquired by Notification, under Section 3 (1) of the Kerala Land Acquisition Act, issued on 28th November, 1978. The Award was passed on 28th September, 1986. Not being satisfied with the Award, the Appellant filed a claim before the Reference Court. The Reference Court by its order dated 20th January, 1993 fixed the compensation at Rs. 40,000 per Are. The Appeal filed by the Appellant has been dismissed by the High Court.

The only contention taken before us is that some other land was also acquired by another Notification dated 23rd January, 1979. It was contended that that land was also from the same survey number. It was submitted that the Reference Court, in that case, has awarded a sum of Rs. 1,23,500/- per Are. It was submitted that the copy of the Judgment of the Reference Court, in that case, was shown to the High Court and the High Court has wrongly not taken that Judgment into consideration.

The Judgment, which is relied upon, was dated 13th February, 1992. Therefore, on the date when the Reference Court decided this case that Judgment was available. If a party wanted to rely upon that Judgment then they had to produce that Judgment before the Reference Court. If such a course had been followed, the Respondent would have an opportunity to show that the lands covered in those acquisition proceedings were dissimilar and/or that Judgment was not applicable. Admittedly, that Judgment was not produced before the Reference Court. Merely producing a certified copy, for the first time before the High Court, was not sufficient. The High Court was right in saying that it could not take note of that Judgment.

We see no infirmity in the impugned Judgment. The Appeal stands dismissed with no order as to costs.

.....J.

(S.N.Variava)

.....J.

(H.K.Sema)

New Delhi,
January 29, 2004.