

CORRECTED

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3547/2023
[Arising out of Special Leave to Appeal (C) No.5472/2018]

PUSHPA SADASIVAN

Petitioner(s)

VERSUS

THE STATE OF KERALA & ANR.

Respondent(s)

WITH

CIVIL APPEAL NO.3548/2023
[Arising out of SLP(C) No. 8374/2018]

CIVIL APPEAL NO.3557/2023
[Arising out of SLP(C) No. 9554/2018]

CIVIL APPEAL NO.3558/2023
[Arising out of SLP(C) No. 9283/2018]

CIVIL APPEAL NO.3559/2023
[Arising out of SLP(C) No. 9555/2018]

CIVIL APPEAL NO.3560/2023
[Arising out of SLP(C) NO.9918/2023
[Diary No.41897/2018]

CIVIL APPEAL NO.3549/2023
[Arising out of SLP(C) No. 7485/2018]

CIVIL APPEAL NO.3550/2023
[Arising out of SLP(C) No. 7274/2018]

CIVIL APPEAL NO.3551/2023
[Arising out of SLP(C) No. 6887/2018]

CIVIL APPEAL NO.3552/2023
[Arising out of SLP(C) No. 6051/2018]

CIVIL APPEAL NO.3553/2023
[Arising out of SLP(C) No. 7158/2018]

CIVIL APPEAL NO.3554/2023
[Arising out of SLP(C) No. 8175/2018]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3547/2013
[Arising out of Special Leave to Appeal (C) No.5472/2018]

PUSHPA SADASIVAN

Petitioner(s)

VERSUS

THE STATE OF KERALA & ANR.

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WITH

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[Arising out of SLP(C) No. 8175/2018]

CIVIL APPEAL NO.3555/2023
[Arising out SLP(C) No. 6934/2018]

CIVIL APPEAL NO.3556/2023
[Arising out of SLP(C) No. 6845/2018]

O R D E R

Leave granted.

2. This batch of 14 appeals assails the Judgment and Order dated 13-10-2017 passed by the Division Bench of the High Court of Kerala at Ernakulam whereby compensation granted by the Reference Court under Section 18 of the Land Acquisition Act, 1894 (in short, '1894 Act') in respect of acquisition of the lands of the appellants for development of International Airport at Thiruvananthapuram, has been reduced.

3. The Respondents issued Notification under Section 4 of the 1894 Act on 10-08-2004, followed by declaration under Section 6 of the Act on 25-01-2005. The Land Acquisition Officer broadly categorized the acquired land in five groups and assessed the market value @ Rs.1,62,686/- per are, Rs.1,21,507/-, Rs.1,09,357/- per are, Rs.97,206/- per are and Rs.73,600/- per are.

4. The Reference Court passed different Awards on 13-07-2008, 30-07-2008, 14-08-2008 and 27-03-2009 by categorising the acquired land in four groups and enhanced the compensation @ Rs.13,23,500/- per are, Rs.14,88,900/- per are, Rs.16,54,307/- per are and Rs.17,00,000/- per are.

5. The State of Kerala challenged the Reference Court's awards in appeals and the High Court vide Judgment dated 04-02-2011 allowed those appeals in part and reduced the compensation in respect of all the four categories of land to Rs.9,00,000/- per are, Rs.9,50,000/- per are, Rs.10,00,000/- per are and Rs.13,30,743/- per are.

6. The aggrieved land-owners approached this Court by way of Civil Appeal No.6063/2011 and other connected matters.

7. A Co-ordinate Bench of this Court vide Judgment dated 17-02-2016 set aside the High Court order and remanded the appeals for fresh consideration by the High Court. The reasons assigned by this Court for remanding the case for fresh adjudication are discernible from Paragraphs 5, 6 and 7 of the Judgment dated 17-02-2016 which are extremely relevant and read as follows:-

"5. The order of the High Court does not indicate the reasons as to why the land acquired for the purpose of acquisition for expansion/development of the International Airport was understood to be akin to the land acquired for the purpose of acquisition for widening of Bakery Palayam Airport Road for TRIDA. Though the learned counsel for the State has tried to lay before us necessary materials in this regard to show the close nexus/similarity between the two we cannot go into the said facts at the instance of the learned counsel for the State in the absence thereof in the order of the High Court. The order of the High Court, in our considered view, ought to have indicated the reasons on the basis of which the High Court had considered the land acquired for the purposes of the two acquisitions to be similar so as to enable us to scrutinize the correctness of

the same.

6. As already noticed, the acquisition in both the cases i.e. Land Acquisition Appeal No. 867 of 2008 and Land Acquisition Appeal No. 673 of 2010 was for the purposes of widening of Bakery Palayam Airport Road. The High Court thought it proper to rely on the judgment passed in Land Acquisition Appeal No. 673 of 2010 and not the judgment in Land Acquisition Appeal No.867 of 2008. The reasons therefor are also not indicated in the order of the High Court.

7. Even if we assume that the High Court has good reasons to rely on the judgment rendered in Land Acquisition Appeal No.673 of 2010 instead of Land Acquisition Appeal No.867 of 2008, there is no basis to enable us to understand as to how and on what basis the High Court had awarded different amounts of compensation, less than Rs.10 lakh (as awarded in Land Acquisition Appeal No.673 of 2010)."

8. It may be seen that in the course of fresh consideration, the High Court was obligated to determine as to whether its previous decisions in Land Acquisition Appeal No.867/2008 or in Land Acquisition Appeal No.673/2010 would be relevant to be followed as an exemplar for determining the fair and just market value of the acquired land. After the remand, the High Court has vide impugned judgment reiterated the same rate of compensation as was determined by it vide previous Judgment dated 04-02-2011, a brief reference to which has already been given in para 5 above.

9. The aggrieved land-owners are again before this Court.

10. We have heard learned counsel for the appellants as well as

learned Senior Counsel for the State of Kerala and have perused the relevant material on record with their able assistance.

11. It is an admitted fact that the acquired land is within the revenue estate of Pettah Village and even according to the High Court, the acquired properties were abutting arterial road leading from the heart of Thiruvananthapuram city to the International Airport. It further appears that the land-owners relied upon three decisions (Exhibit `A1' to Exhibit `A3') before the High Court as relevant exemplars for determining the market value of their land. The High Court has proceeded to distinguish these three judgments for various reasons including that Exhibit `A' pertains to a land situated near an over bridge junction which is in the heart of the Thiruvananthapuram city. These decisions, according to the High Court, could not be relied upon as no comparable sale method was adopted while deciding those cases. The High Court has further held that the judgments relied upon do not pertain to lands in close proximity to the acquired land. Eventually, it concluded that the only option available is to make a rough estimate of the market value of the acquired land.

12. While remanding the case, this Court had categorically opined that the High Court will consider the two decisions rendered in Land Acquisition Appeal No.867/2008 and Land Acquisition Appeal No.673/2010 and then determine as to which of the two judgments was of close proximity or relevant for the purpose of evaluating the market value of the acquired land. Unfortunately, no such effort

has been made by the High Court. The impugned Judgment does not hold that the Reference Court while categorizing the acquired land in four groups or in determining their market value, misread any evidence; relied upon any irrelevant exemplar or over-estimated the potentiality of the acquired land.

13. The High Court has finally assessed the market value on the basis of rough estimate, overlooking the fact that the value so assessed by it in the previous round was disapproved by this Court.

14. Since the High Court has failed to give any tangible reason to discard the market value fixed by the Reference Court, it appears to us that there was no occasion to reduce the rate of compensation on the basis of rough estimate undertaken by the High Court. Keeping in view the location of the acquired land which is a compact piece; the public purpose for which it has been acquired; the fact that the land is situated within Thiruvananthapuram city and has great potentiality to be utilized for residential, commercial, industrial or any other development purposes, we are satisfied that the compensation awarded by the Reference Court is fair and just and does not warrant any interference.

15. For the reasons afore-stated, the appeals are allowed; the impugned Judgment of the High Court is set aside and the awards passed by the Reference Court are restored. Consequently, the appellants shall be entitled to compensation in accordance with the awards passed in their favour by the Reference Court along with other statutory benefits under the 1894 Act.

Civil Appeal No.9816/2011:-

1. In this appeal also, the appellant's land measuring 1.92 ares is situated in Village Pettah within the city of Thiruvananthapuram. The appellant's land was proposed to be acquired for development of International Airport vide Notification dated 04-02-1999 issued under Section 4 of the 1894 Act. After acquisition, the Land Acquisition Officer passed an Award on 16-05-2000 fixing the market value of the land @ Rs.62,929/- per are. The appellant filed reference under Section 18 of the Act and the Reference Court vide Award dated 11-04-2008 enhanced the compensation to Rs.15,00,000/- per are. The State of Kerala challenged the Reference Court award before the High Court and vide impugned Judgment dated 10-01-2011, the High Court has reduced the compensation to Rs.1,32,865/- per are.

2. Since in other Civil Appeals, we have upheld the compensation awarded by the Reference Court for the land of Village Pettah acquired for the same public purpose of development of International Airport at Thiruvananthapuram, we see no reason to not apply the same analogy in the case of the appellant also.

3. The appeal is, accordingly, allowed; the impugned Judgment dated 10-01-2011 of the High Court is set aside and the Award passed by the Reference Court in favour of the appellant on 11-04-2008 is restored along with all other statutory benefits under the 1894 Act.

4. State of Kerala and its authorities shall deposit the enhanced amount of compensation with the Reference Court within eight weeks.

.....J
(SURYA KANT)

.....J
(J.B. PARDIWALA)

NEW DELHI;
9TH MAY, 2023.

ITEM NO.2

COURT NO.9

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

Petition for Special Leave to Appeal (C) No.5472/2018

(Arising out of impugned final judgment and order dated 13-10-2017 in LAA No. 31/2010 passed by the High Court of Kerala at Ernakulam)

PUSHPA SADASIVAN

Petitioner(s)

VERSUS

THE STATE OF KERALA & ANR.

Respondent(s)

WITH

C.A. No. 9816/2011 (XI-A)

SLP(C) No. 8374/2018 (XI-A)

(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 134925/2022)

SLP(C) No. 9554/2018 (XI-A)

SLP(C) No. 9283/2018 (XI-A)

SLP(C) No. 9555/2018 (XI-A)

Diary No.41897/2018 (XI-A)

(FOR CONDONATION OF DELAY IN FILING SLP ON IA 169401/2018))

SLP(C) No. 7485/2018 (XI-A)

SLP(C) No. 7274/2018 (XI-A)

SLP(C) No. 6887/2018 (XI-A)

SLP(C) No. 6051/2018 (XI-A)

SLP(C) No. 7158/2018 (XI-A)

SLP(C) No. 8175/2018 (XI-A)

SLP(C) No. 6934/2018 (XI-A)

(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 134939/2022)

SLP(C) No. 6845/2018 (XI-A)

(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 134916/2022)

Date : 09-05-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s)

Mr. Prashant Padmanabhan, AOR

Mr. C.N. Sreekumar, Sr. Adv.

Ms. Anupama Kumar, Adv.

Mr. Amit Sharma, Adv.

Mr. Prakash Ranjan Nayak, AOR

Mr. K.N. Bhargavan, Adv.
Mr. Saurabh Bhargavan, Adv.
Mr. Nikhil S Nair, Adv.
Mr. V. K. Sidharthan, AOR

Mr. Rajesh P., AOR
Mr. Deeptanshu Jain, Adv.
Mr. Manoranjan Sharma, Adv.

For Respondent(s)

Mr. C. K. Sasi, AOR

Mr. Jayanth Muth Raj, Sr. Adv.
Mr. Nishe Rajen Shonker, AOR
Mrs. Anu K Joy, Adv.
Mr. Alim Anvar, Adv.
Ms. Miranda Solaman, Adv.

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

1. Delay condoned.
2. Leave granted.
3. The appeals are allowed, in terms of the signed Order.
4. Pending applications also stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
COURT MASTER (NSH)

(Signed Order is placed on the file)