

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 26TH JUNE 2006 / 5TH ASHADHA, 1928

MFA.No. 807 of 2000()

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EIC.24/1998 OF E.I.COURT, KOZHIKODE  
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APPELLANT:

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M/S.HOTEL PARADISE,  
REMANATTUKARA,  
KOZHIKODE, REPRESENTED BY  
THE PROPRIETOR, K.P.CHEKKU

BY ADV. SRI.U.K.RAMAKRISHNAN  
SRI.P.V.LOHITHAKSHAN

RESPONDENTS:

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THE DEPUTY REGIONAL DIRECTOR,  
ESI CORPORATION, PANCHDEEP BHAVAN,  
NORTH SWARAJ ROUND,  
THRISSUR.

BY ADV. SRI.T.V.AJAYAKUMAR

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD  
ON 26/06/2006 , THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**K. PADMANABHAN NAIR, J.**

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L.A.A. NO. 807 OF 2000

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Dated this the 3rd day of April, 2007

**J U D G M E N T**

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The 8th claimant in L.A.R. No.8 of 1996 on the file of the Sub Court, Neyyattinkara, is the appellant. Appeal is filed claiming further enhancement of the compensation awarded by the lower court. The Land Acquisition Officer fixed land value at the rate of Rs.11,588/- per Are. The lower court enhanced the same to Rs.15,000/- per Are.

2. An extent of 4.5 Ares of land comprised in Sy.No.77/9 of Vizhinjam Village was acquired for the development of Vizhinjam Fishing Harbour Project. The property was included in B1 category by the Land Acquisition Officer and fixed land value at the rate of Rs.11,588/- per Are. Since there was dispute regarding apportionment of land value also, the Land Acquisition Officer deposited the amount awarded in court. As there was claim for enhancement and apportionment, reference was made under Sections 18 and 31(2) of the Kerala Land Acquisition Act. Learned Sub Judge found that the land value of Rs.11,588/-

per Are fixed by the Land Acquisition Officer is inadequate and the appellant is entitled to get enhancement. Appellant relied on Exhibits A5 and A6 judgments for claiming enhanced land value. The lower court did not rely on those judgments on the ground that there was nothing to show that those judgments have become final and conclusive. But the lower court holding that the land acquired in this case is just below the lands covered by those judgments, enhanced land value and fixed the same at Rs.15,000/- per Are. Challenging the inadequacy of the compensation awarded by the lower court, this appeal is filed by the 8th claimant.

3. Admittedly, the property is included under B1 category. The evidence on record shows that the property is having road frontage and it is situated very near to Vizhinjam Bazar. It was also come out in evidence that on the rear side of the property there is another lane. Appellant mainly rely on Exhibits A5 and A6. It is not disputed that those two references arose against the properties acquired for the same purpose. In Exhibit A5, L.A.R. No.70 of 1987, the court below enhanced the land value to Rs.20,000/- per Are. Exhibit A6 is the common

judgment passed in L.A.R. No.225 of 1986 and L.A.R. No.30 of 1987 in which the land value was fixed at Rs.17,000/- per Are. Exhibit A6 shows that though the lower court found that properties covered by that judgment would fetch more than what was awarded, land value was fixed only at Rs.17,000/- per Are since the claim was limited to Rs.17,000/-. Evidence on record also shows that the properties covered by Exhibits A5 and A6 are included in A category. It is argued by the learned counsel for the appellant that the Land Acquisition Officer has awarded land value at the rate of Rs.11,036/- only for lands coming under A category. It is also argued that though the property in question was categorised under B1, the Land Acquisition Officer had fixed land value at the rate of Rs.11,588/- per Are, which was higher than what was fixed for A category properties. Evidence on record also shows that several public offices and important institutions are situated near the property acquired in this case. Challenging the award passed in L.A.R. No.70 of 1987, State had filed L.A.A. No.766 of 1992 before this Court and this Court by judgment dated 15.7.2002 dismissed the appeal confirming the compensation awarded by the lower court. So, I am of the view

that the appellant is entitled to something more than what was awarded as per Exhibit A6, though he may not be entitled to get the value fixed for A category properties. According to me Rs.18,500/- per Are is a reasonable compensation for the property acquired in case.

In the result, the appeal is allowed in part. The compensation awarded by the lower court is modified and enhanced to Rs.18,500/- per Are. The appellant is entitled to get 30% solatium. He shall also be entitled to additional increase at the rate of 12% per annum from 21.12.1982 till 20.6.1987 for the additional compensation awarded. Appellant is also entitled to get interest at the rate of 9% per annum from 6.11.1995 for a period of one year and thereafter at the rate of 15% per annum till date of payment of the compensation as awarded by this Court.

**K. PADMANABHAN NAIR, JUDGE.**

**K. PADMANABHAN NAIR, J.**

**L.A.A.NO. 807 OF 2000**

**J U D G M E N T**

**4TH APRIL, 2007**