

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN**

FRIDAY, THE 31ST OCTOBER 2008 / 9TH KARTHIKA 1930

LA.App.No. 102 of 2007

LAR.248/2003 of SUB COURT, QUILANDY

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APPELLANT/RESPONDENT:

**STATE OF KERALA, REP.BY THE
SPECIAL TAHSILDAR, (LA NH-I), KOZHIKODE.**

BY GOVERNMENT PLEADER SRI. K.J. MOHAMMED ANZAR.

RESPONDENTS/CLAIMANTS:

**1. MUKKUNNUMMAL SANKARAN NAIR,
S/O.GOPALAN NAIR, AVITTANALLUR.**

2. O.E.C.F., KWA, KOZHIKODE.

ADV. SRI. R. PARTHASARATHY FOR R1

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY
HEARD ON 31/10/2008, ALONG WITH L.A.A. 498/2007 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

KURIAN JOSEPH & K.T. SANKARAN, JJ.

L.A.A. Nos.102 & 498 OF 2007

AND

L.A.A. No.1269 OF 2008

Dated this the 31st day of October, 2008.

J U D G M E N T

Kurian Joseph, J.

C.M.Appln.Nos.139/2007 and 1319/2008: These are applications for condonation of delay in filing the appeals, L.A.A. Nos.102/2007 and 1269/2008 respectively.

The appeals are filed by the State aggrieved by the fixation of land value by the reference court, Sub Court, Koyilandy. Acquisition is for the purpose of laying pipeline for Kerala Water Authority. In all these appeals the claimants had a case for land value at the rate of Rs.15,000/- per cent.

2. The reference court placed reliance on Exhibit A1 document. Exhibit A1 property is situated 250 metres away from the acquired property and it is situated at Koottalida town, a commercially important place with so many shops and other institution. Thus the reference court found that the acquired property and Exhibit A1 property is similar and similarly situated.

The centage value in Exhibit A1 is Rs.13,000/-. The property covered by Exhibit A1 and the acquired property are having road frontage also.

3. However, according to the Advocate Commissioner, Exhibit A1 property is situated in the heart of the town. Therefore, in view of the distance of 250 metres away from the town, the Advocate Commissioner himself had reduced Rs.2,000/- and according to the Commissioner, the land value would be around Rs.11,000/- per cent. The reference court noted that even according to RW1, the acquired property was fit for construction of buildings and it is commercially important.

In the above facts of the case, adopting the permissible guess work, the reference court fixed the land value at the rate of Rs.8,000/- per cent. There is no contra evidence. Therefore, the applications for condonation of delay and the appeals are dismissed.

All the interlocutory applications for stay are dismissed.

KURIAN JOSEPH, JUDGE

K.T. SANKARAN, JUDGE

**KURIAN JOSEPH &
K.T. SANKARAN, JJ.**

**L.A.A. Nos.102 & 498 OF 2007
AND
L.A.A. No.1269 OF 2008**

J U D G M E N T

31.10.2008