

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE
&
THE HONOURABLE MR. JUSTICE C.K.ABDUL REHIM**

FRIDAY, THE 29TH JULY 2011 / 7TH SRAVANA 1933

LA.App..No. 961 of 2009()

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LAR.413/2006 of III ADDL.SUB COURT, ERNAKULAM
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APPELLANT(S): RESPONDENT

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STATE OF KERALA**

BY GOVT.PLEADER SMT. LATHA T. THANKAPPAN

RESPONDENT(S): CLAIMANTS

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- 1. THRESIA ALEXANDER, W/O.ALEXANDER,
KODARAPILLIL, VYTTILA.**
 - 2. MERCY, D/O.ALEXANDER,
KODARAPILLIL, VYTTILA.**
 - 3. ELIZABETH, @ ELSY FRANCIS,
D/O.ALEXANDER, KODARAPILLIL, VYTTILA.**
 - 4. TESSY, D/O.ALEXANDER, KODARAPILLIL,
VYTTILA.**
 - 5. ASHA, D/O.ALEXANDER, KODARAPILLIL,
VYTTILA.**

**R1 TO 5 BY ADVS. SRI.M.V.JOHN
SRI.B.JAYAPARAKASH
SRI.RENJU JOHN**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD
ON 29/07/2011, ALONG WITH LAA NO.969 OF 2010
LAA NO.1034 OF 2010 THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

SVS

PIUS C.KURIAKOSE & C.K.ABDUL REHIM,JJ.

LAA.NO. 961 of 2009

Dated this the 24th day of June, 2010

JUDGMENT

Pius C.Kuriakose,J.

Today also there is no representation for the respondents/claimants. We feel that the appeal can be disposed of on the basis of the arguments advanced by the learned Government Pleader.

2. Land under acquisition in this case was situated in Poonithura Village. Purpose of the acquisition was widening of Sahodaran Ayyappan Road. The relevant section 4(1) notification was published on 13.10.2004. The Land Acquisition Officer included the property in category-D i.e. land lying at a level lower than the level of the existing road. Claimants took out a commission before the Court below. The Commissioner reported that at the time of his inspection land was found to be at the same level of the existing road. Argument of the learned Government Pleader Smt. Latha T.Thankappan is that the level of the property under acquisition was raised after the acquisition by the requisitioning authority. According to her, the court below was not justified in relying on the commissioner's report based on an inspection conducted four years after the relevant notification. It is

not disputed by the learned Government Pleader that in cases pertaining to the acquisition of property for the same purpose and in the same village and nearby villages this court has approved enhancement of land value by 60% of the rates awarded by the Land Acquisition Officer. We feel in this case also atleast 60% enhancement should be granted to the respondents.

3. The result of the above discussion is that in modification of the land value of Rs.10,80,188/- per Are fixed under the impugned judgment, the value will be refixed at Rs.9,38,220/- per Are. Appeal stands allowed to the above extent. Needless to mention that the claimants will be entitled for all statutory benefits on the total enhanced compensation admissible under section 23(1A), 23(2) and 28 of the Land Acquisition Act. Parties are directed to suffer their respective costs. The respondents will be eligible for all statutory benefits under section 23(1A), 23(2) and 28 of the Land Acquisition Act.

PIUS C. KURIAKOSE ,JUDGE

pmn/

C.K.ABDUL REHIM,JUDGE

