

SUPREME COURT OF INDIA

Devki Amma (Dead) By L.Rs.

Vs.

State of Kerala

C.A.Nos.1024-1035 of 2002

(B.N. Agrawal and G.S. Singhvi JJ.)

30.04.2009

ORDER

The land of the appellants was acquired by notification dated 18 th January, 1991 issued under Section 4(1) of the Land Acquisition Act, 1894 [for short, "the Act"]. The Land Acquisition Officer awarded compensation at the rate of Rs.5,163/- per cent for garden land and Rs.3,600/- for wet land. The Reference Court fixed the compensation for garden land at Rs.14,000/- per cent and for wet land at Rs.11,000/- per cent. In the appeal preferred by the State of Kerala and others against the award of the Reference Court, the High Court reduced the rate of compensation for garden land from Rs.14,000/- per cent to Rs.12,000/- per cent and for wet land from Rs.11,000/- per cent to Rs. 8,000/- per cent. Hence, these appeals. We have heard learned counsel for the parties and scrutinized the record. While fixing compensation at a higher rate, the Reference Court relied on Ext. A4 dated 19.9.1985 wherein value of the land was shown at Rs.33,333/- per cent and judgment Ext. A5 rendered by the learned Sub-ordinate Judge, Kozhikode, by which the compensation payable to the land owner of that case was fixed at Rs.14,000/- per cent. The land which was subject matter of Ext. A5 is situated at a distance of 250 meters from the land of the appellants. The same was also acquired by notification issued under Section 4(1) of the Act in the year 1991. The Land Acquisition Officer awarded compensation at the rate of Rs.5,500/- per cent which was enhanced to Rs.14,000/- per cent. In the present case, the respondents did not adduce any evidence to show that the judgment Ext. A5 could not be made basis for fixing the compensation payable to the appellants. This being the position, the Reference Court was justified in fixing the compensation payable to the

appellants at the rate of Rs.14,000/- per cent for garden land and Rs.11,000/- per cent for wet land and the High Court was clearly in error in reducing the same only on the premise that oral evidence was not produced by the land owners in support of their claims. Accordingly, the appeals are allowed and the impugned judgment rendered by the High Court is set aside and the same passed by the Reference Court is restored. Needless to say that the appellants shall be entitled to all statutory benefits. No costs.