2025:KER:25291

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

TUESDAY, THE 25TH DAY OF MARCH 2025/4TH CHAITHRA, 1947

L.A.APP.NO.41 OF 2018
AGAINST THE JUDGMENT AND DECREE DATED 23.08.2017 IN
L.A.R.NO.4 OF 2014 OF SUB COURT, PATHANAMTHITTA

APPELLANT/1ST RESPONDENT IN LAR:

STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR, PATHANAMTHITTA.

BY SRI.T.K.SHAJAHAN, SENIOR GOVERNMENT PLEADER

RESPONDENTS/CLAIMANTS AND 2ND RESPONDENT IN LAR:

1 M.N. RAMACHANDRAN
MALIYECKAL HOUSE, VETTIPPURAM MURI, PATHANAMTHITTA
VILLAGE, KOZHENCHERRY TALUK, PIN-689645.

2 K.SREE KUMAR
VIJAYA BHAVAN, PALLICKAL MURI, PALAMEL VILLAGE,
MAVELIKKARA TALUK, PIN-690503. [DIED]

3 THE SECRETARY
PATHANAMTHITTA MUNICIPALITY
PIN-689645.

ADDL.R4 SAJINI R
W/O.SREEKUMAR K,
VIJAYA BHAVANAM, PALLIKKALMURI, PALAMEL,
MAVELIKKARA TALUK, PIN-690504

ADDL.R5 DEVU S
D/O.SREEKUMAR K, VIJAYA BHAVANAM,
PALLIKALMURI, PALAMEL,

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MAVELIKKARA TALUK, PIN-690504

ADDL.R6 GOVIND S
S/O.SREEKUMAR K, VIJAYA BHAVANAM,
PALLIKALMURI, PALAMEL,
MAVELIKKARA TALUK, PIN-690504

[THE LEGAL HEIRS OF DECEASED R2 ARE IMPLEADED AS ADDL. RESPONDENTS 4 TO 6 AS PER ORDER DATED 11.08.2023 IN I.A.NO.2 OF 2023 IN L.A.A.NO.41 OF 2018]

BY ADV.SRI.P.VIJAYAKUMAR
BY ADV.SRI.C.R.REGHUNATHAN
BY ADV.SRI.GEORGE ABRAHAM PACHAYIL, SC, PATHANAMTHITTA MUNICIPALITY
BY ADV.SRI.V.K.SUNIL

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 25.03.2025 ALONG WITH L.A.A.NOS.46 & 47 OF 2018 & C.O.NOS.37, 38 & 61 OF 2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:25291

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

TUESDAY, THE 25TH DAY OF MARCH 2025/4TH CHAITHRA, 1947

L.A.APP.NO.46 OF 2018
AGAINST THE JUDGMENT AND DECREE DATED 23.08.2017 IN L.A.R.NO.6 OF 2014 OF SUB COURT, PATHANAMTHITTA

APPELLANT/1ST RESPONDENT IN LAR:

STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR, PATHANAMTHITTA.

BY SRI.T.K.SHAJAHAN, SENIOR GOVERNMENT PLEADER

RESPONDENTS/CLAIMANTS AND 2ND RESPONDENT IN LAR:

1 **P. GOPINATHAN NAIR**
GAYATHRI, THIRUVAMPADI P.O, ALAPPUZHA - 688002.

2 **P. RADHAKRISHNAN**
34/820, SARASWATHY NIVAS, BEEN-ANJUMANA ROAD, EDAPPALLY P.O, KOCHI - 682024.

3 **G. SANTHAKUMARI AMMA**
HILL VIEW, MUDAVANAMUKAL, POOJAPPURA, THIRUVANANTHAPURAM - 695012.

4 **K. SREE KUMAR**
VIJAYA BHAVANAM, PALLICKAL MURI, PALAMEL VILLAGE,

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MAVELIKKARA TALUK - 690101.

5 THE SECRETARY
PATHANAMTHITTA MUNICIPALITY - 689 645.

BY ADV.SRI.P.VIJAYAKUMAR
BY ADV.SRI.C.R.REGHUNATHAN
BY ADV.SRI.B.HARRYLAL
BY ADV.SRI.GEORGE ABRAHAM PACHAYIL, SC, PATHANAMTHITTA MUNICIPALITY

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

TUESDAY, THE 25TH DAY OF MARCH 2025/4TH CHAITHRA, 1947

L.A.APP.NO.47 OF 2018
AGAINST THE JUDGMENT AND DECREE DATED 23.08.2017 IN L.A.R.NO.5 OF 2014 OF SUB COURT, PATHANAMTHITTA

APPELLANT/1ST RESPONDENT IN LAR:

STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR,
PATHANAMTHITTA-689 645.

BY SRI.T.K.SHAJAHAN, SENIOR GOVERNMENT PLEADER

RESPONDENTS/CLAIMANTS AND 2ND RESPONDENT IN LAR:

1 **K.SREEKUMAR**
VIJAYA BHAVAN, PALLICKAL MURI, PALAMEL VILLAGE,
MAVELIKKARA, PIN-690504.

2 **THE SECRETARY**
PATHANAMTHITTA MUNICIPALITY-689645.

BY ADV.SRI.P.VIJAYAKUMAR
BY ADV.SRI.C.R.REGHUNATHAN
BY ADV.SRI.B.HARRYLAL
BY ADV.SRI.GEORGE ABRAHAM PACHAYIL, SC, PATHANAMTHITTA MUNICIPALITY

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 25.03.2025 ALONG WITH L.A.A.NOS.41 & 46 OF 2018 & C.O.NOS.37, 38 & 61 OF 2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:25291

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

TUESDAY, THE 25TH DAY OF MARCH 2025/4TH CHAITHRA, 1947

C.O.NO.37 OF 2019 IN L.A.APP.NO.41 OF 2018

CROSS OBJECTION IN L.A.APP.NO.41 OF 2018 AGAINST THE AWARD DATED 23.08.2017 IN L.A.R.NO.4 OF 2014 OF SUB COURT, PATHANAMTHITTA

CROSS APPELLANTS/RESPONDENTS 1 & 2/CLAIMANTS:

1 M.N.RAMACHANDRAN
AGED 71 YEARS
MALIYECKAL HOUSE, VETTIPPURAM MURI,
PATHANAMTHITTA VILLAGE, KOZHENCHERRY TALUK-689 645.

2 K. SREEKUMAR
VIJAYA BHAVAN, PALLICKAL MURI, PALAMEL VILLAGE,
MAVELIKKARA TALUK-690 503.

BY ADV.SRI.P.VIJAYAKUMAR
BY ADV.SRI.C.R.REGHUNATHAN
BY ADV.SRI.B.HARRYLAL

RESPONDENTS/APPELLANT & 3RD RESPONDENT/RESPONDENT:

1 STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR,
PATHANAMTHITTA-689 645.

2 THE SECRETARY
PATHANAMTHITTA MUNICIPALITY-689 645.

2025:KER:25291

BY SRI.T.K.SHAJAHAN, SENIOR GOVERNMENT PLEADER
BY SRI.GEORGE ABRAHAM PACHAYIL, SC, PATHANAMTHITTA MUNICIPALITY

THIS CROSS OBJECTION HAVING BEEN FINALLY HEARD ON 25.03.2025 ALONG WITH L.A.A.NOS.41, 46 & 47 OF 2018 & C.O.NOS.38 & 61 OF 2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:25291

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

TUESDAY, THE 25TH DAY OF MARCH 2025/4TH CHAITHRA, 1947

C.O.NO.38 OF 2019 IN L.A.APP.NO.46 OF 2018

CROSS OBJECTION IN L.A.APP.NO.46 OF 2018 AGAINST THE AWARD DATED 23.08.2017 IN L.A.R.NO.6 OF 2014 OF SUB COURT, PATHANAMTHITTA

CROSS APPELLANTS/RESPONDENTS/CLAIMANTS:

1 P. GOPINADHAN NAIR
AGED 53 YEARS
GAYATHRI, THIRUVAMPADI P.O.,
ALAPPUZHA.

2 P. RADHAKRISHNAN
AGED 50 YEARS,
34/820, SARASWATHY NIVAS,
BEENA-ANJUMANA ROAD, EDAPALLY P.O.,
KOCHI.

3 G. SANTHAKUMARI AMMA
AGED 48 YEARS,
POOJAPURA, THIRUVANANTHAPURAM.

4 K. SREEKUMAR
AGED 54 YEARS,
VIJAYA BHAVAN, PALLICKAL MURI,
PALAMEL VILLAGE, MAVELIKKARA TALUK – 690503.

BY ADV.SRI.P.VIJAYAKUMAR
BY ADV.SRI.C.R.REGHUNATHAN
BY ADV.SRI.B.HARRYLAL

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RESPONDENTS/APPELLANT & 5TH RESPONDENT/RESPONDENT:

1 STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR,
PATHANAMTHITTA - 689 645.

2 THE SECRETARY
PATHANAMTHITTA MUNICIPALITY - 689 645.

BY SRI.T.K.SHAJAHAN, SENIOR GOVERNMENT PLEADER
BY SRI.GEORGE ABRAHAM PACHAYIL, SC, PATHANAMTHITTA MUNICIPALITY

THIS CROSS OBJECTION HAVING BEEN FINALLY HEARD ON 25.03.2025 ALONG WITH L.A.A.NOS.41, 46 & 47 OF 2018 & C.O.NOS.37 & 61 OF 2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

TUESDAY, THE 25TH DAY OF MARCH 2025/4TH CHAITHRA, 1947

C.O.NO.61 OF 2019 IN L.A.APP.NO.47 OF 2018

CROSS OBJECTION IN L.A.APP.NO.47 OF 2018 AGAINST THE AWARD DATED 23.08.2017 IN L.A.R.NO.5 OF 2014 OF SUB COURT, PATHANAMTHITTA

ROSS APPELLANT/1ST RESPONDENT/CLAIMANTS:

1 K. SREEKUMAR
AGED 54 YEARS,
VIJAYA BHAVAN, PALLICKAL MURI,
PALAMEL VILLAGE, MAVELIKKARA TALUK – 690503.

BY ADV.SRI.P.VIJAYAKUMAR
BY ADV.SRI.C.R.REGHUNATHAN
BY ADV.SRI.B.HARRYLAL

RESPONDENTS/APPELLANT & 2ND RESPONDENT/RESPONDENT:

1 STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR,
PATHANAMTHITTA - 689 645.

2 THE SECRETARY
PATHANAMTHITTA MUNICIPALITY - 689 645.

BY SRI.T.K.SHAJAHAN, SENIOR GOVERNMENT PLEADER
BY SRI.GEORGE ABRAHAM PACHAYIL, SC, PATHANAMTHITTA MUNICIPALITY

THIS CROSS OBJECTION HAVING BEEN FINALLY HEARD ON 25.03.2025 ALONG WITH L.A.APP.NOS.41, 46 & 47 OF 2018 & C.O.NOS.37 & 38 OF 2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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J U D G M E N T

Easwaran S., J.

The Land Acquisition Appeals and Cross Objections are preferred against the judgment of the Sub Court, Pathanamthitta in L.A.R.Nos.4, 5 and 6 of 2014.

2. The brief facts necessary for disposal of the Land Acquisition Appeals and Cross Objections are as follows:

A total extent of 13.8 Ares comprising in different survey numbers was acquired for the purpose of establishing Edathavalams for Sabarimala pilgrims. The Notification under Section 4(1) of the Land Acquisition Act [hereinafter referred to as the "Act"] was issued on 09.08.2011. The award was passed on 15.01.2014. The Land Acquisition Officer fixed the land value at Rs.1,69,427/- per Are. Aggrieved by the land value fixed by the Land Acquisition Officer, all the claimants sought reference under Section 18 of the Act. The claimants relied on Ext.A1 [Document No.2971/2009 dated 23.12.2009] for claiming enhancement. The State produced Exts.R1 to R16 documents. The claimants also sought for appointment of an Advocate Commission for local inspection, who inspected the property and



submitted Ext.C1 report. AW1 to AW3 were examined on behalf of the claimants, whereas RW1 was examined on behalf of the State. On appreciation of evidence, the Reference Court took Ext.A1 as an exemplar and fixed Rs.9,88,000/- per Are as the land value and granted the consequential statutory benefits also. In these appeals, the State contends that the land value fixed by the Reference Court is on a higher side, especially since Ext.A1 pertains to land in a commercially important area, whereas the land acquired is 2 kms. away from the land covered by Ext.A1.

3. The claimants, on the other hand, had preferred Cross Objections pointing out that, going by the report of the Advocate Commissioner, the land acquired is in a fast developing area, and they are entitled to get an amount of Rs.15 lakhs as the land value. However, for the purpose of Cross Objections, they have limited their claim up to Rs.12 lakhs.

4. Heard Sri.T.K.Shajahan, the learned senior Government Pleader appearing for the State as also Sri.Reghunathan C.R., the learned counsel appearing for the claimants in the Cross Objections.

5. On a consideration of the rival submissions made across the bar, we are of the view that the State is entitled to succeed in these

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appeals. We note that the claimants had not produced any exemplars other than Ext.A1. In the absence of any evidence to show that the land acquired and the land covered by Ext.A1 are similar in nature, the Reference Court could not have granted the land value at Rs.9,88,000/- per Are. Pertinently, apart from Ext.A1, the only other evidence relied upon by the claimants is the report of the Advocate Commissioner. Even if we were to assume that the report of the Advocate Commissioner is a valuable piece of evidence insofar as the nature of the property is concerned, we cannot remain oblivious of the fact that the Advocate Commissioner visited the property only on 24.11.2016, that is five years after the Notification that was issued under Section 4(1) of the Act. The period of five years is considerably a long period and it is impossible for the Advocate Commissioner to have noted the exact nature of the property as on the date of Section 4(1) Notification. It is quite possible that substantial developments would have taken place within 5 years. We are of the considered view that the developments that took place between the date of Notification and the date of inspection cannot form the basis of the determination of the land value as on the date of Section 4(1) Notification.

6. Therefore, even if the claimants have proved that the property in Ext.A1 and the land acquired are situated within the same radius, still the Reference Court could not have granted the escalation of price

from 23.12.2009 to 09.08.2011 for the reason that there is total lack of evidence to show that the property covered by Ext A1 and the land acquired are similar in nature. However, having said so, we find that from the evidence adduced, the property covered by Ext.R16, which is the basic land and the land acquired does not have any similarity. Therefore it is clear that extraneous consideration passed into the minds of the Land Acquisition Officer while fixing the land value. Hence we are constrained to determine the market value based on the only exemplar, i.e, Ext.A1. Even if Ext.A1 is taken as an exemplar, considering the difference in the nature of land between Ext.A1 and the land acquired, we are not inclined to apply the escalation for the period of one year eight months between the date of Ext.A1 and the date of Section 4(1) Notification. So, by adopting the principle of guesstimation, we are forced to rework the compensation to be granted to the claimants. Inevitably, the judgment of the Reference Court requires interference and requires it to be modified, and accordingly, we refix the market value of the land by taking away the escalation of price and refix the value of land at Rs.8,53,948/-, which is value shown in Ext.A1.

In the result, we allow the appeals preferred by the State and reduce the land value fixed by the Reference Court from Rs.9,88,000/- to Rs.8,53,948/- per Are. The Cross objections are thus dismissed. The

statutory benefits due to the claimants shall be reworked in accordance with the land value of Rs.8,53,948/-, which is fixed in these appeals.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
EASWARAN S.
JUDGE

prp/26/03/25