

**NON-REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 2825 OF 2011**

**SOMAN**

**..... APPELLANT**

**v.**

**INLAND WATERWAYS AUTHORITY  
OF INDIA & ANR.**

**..... RESPONDENTS**

**WITH**

**CIVIL APPEAL NO. 2826 OF 2011**

**WITH**

**CIVIL APPEAL NO. 2827 OF 2011**

**AND**

**CIVIL APPEAL NO. 7599 OF 2011  
[@ SLP (CIVIL) NO. 387 OF 2013]**

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

**ABHAY S. OKA, J.**

Delay condoned. Leave granted in Special Leave Petition No. 387  
of 2013.

**FACTUAL ASPECTS**

1. Civil Appeal Nos.2825, 2826 and 2827 of 2011 take exception to the common Judgment and order dated 25<sup>th</sup> August 2009 passed by a Division Bench of the High Court of Kerala in LA Appeal nos. 829 of 2006, 1005 of 2007 and 1000 of 2007 arising out of the awards made by a Civil Court in References under Section 18(1) of the Land Acquisition Act,1894 (for short "the said Act") in respect of the lands in village Mullackal in District Allapuzha. The purpose of the acquisition was of widening of National Waterway no.III in Kerala. Civil Appeal No. 2826 of 2011 takes an exception to the Judgment and order dated 5<sup>th</sup> March 2010 passed by a Division Bench of the High Court of Kerala in LA. Appeal No. 637 of 2001 arising out of an Award made by a Civil Court in a Reference under Section 18(1) of the said Act in respect of a land in village Maradu, Kanayannur Taluka in Ernakulam District. The purpose of the acquisition was of setting up of Inland Water Transport Terminal. In one of the cases, compensation was granted in respect of the building on the acquired land. In one case, compensation was claimed on account of severance of the remaining land. But in these appeals which are filed by the landowners/claimants, we are concerned only with the

land value. There is no dispute about the grant of statutory benefits under Sections 23(1-A), 23(2) and 28 of the said Act.

2. Facts of Civil Appeal Nos. 2825 to 2827 of 2011 are more or less identical. The relevant factual aspects in nutshell are as under:

**Civil Appeal No. 2825 of 2011**

- (i) The date of the Notification under Section 4(1) of the said Act: 24<sup>th</sup> August 1999.
- (ii) Survey number of the acquired land: 867/5A1-2 of village Mullackal.
- (iii) Area of the acquired land: 10 Acres of wetland and 0.80 Ares of dry land.
- (iv) Market value of the acquired land fixed by the Award under Section 11 of the said Act: Rs.11,386/- per Are for dry land and Rs.370/- per Are for the wetland.
- (v) Market value of the acquired land fixed by the Civil Court in a Reference under Section 18(1) of the said Act: Rs.40,000/- per Are for dry land and Rs.10,000/- per Are for the wetland.
- (vi) Market value of the acquired land fixed by the High Court: Rs.34,158/-per Are for dry land and Rs.1,500/- per Are for the wetland.

**Civil Appeal No. 2826 of 2011**

- (i) The date of the Notification under Section 4(1) of the said Act: 3<sup>rd</sup> May 1999.
- (ii) Survey number of the acquired land: 867/1F-1 of village Mullackal.
- (iii) Area of the acquired land: 7.60 Ares of dry land.

- (iv) Market value of the acquired land fixed by the Award under Section 11 of the said Act: Rs.11,386/- per Are for dry land.
- (v) Market value of the acquired land fixed by the Civil Court in a Reference under Section 18(1) of the said Act: Rs.60,000/- per Are for dry land.
- (vi) Market value of the acquired land fixed by the High Court: Rs.34,158/- per Are for dry land.

**Civil Appeal No. 2827 of 2011**

- (i) The date of the Notification under Section 4(1) of the said Act: 3<sup>rd</sup> May 1999.
- (ii) Survey number of the acquired land: 867/5 A2-1 of village Mullackal.
- (iii) Area of the acquired land: 5.10 Ares of dry land.
- (iv) Market value of the acquired land fixed by the Award under Section 11 of the said Act: Rs.11,386/- per Are for dry land.
- (v) Market value of the acquired land fixed by the Civil Court in a Reference under Section 18(1) of the said Act: Rs.60,000/- per Are for dry land.
- (vi) Market value of the acquired land fixed by the High Court: Rs.34,158/-per Are for dry land.

**Civil Appeal arising out of Special Leave Petition No. 387 of 2013**

- (i) The date of the Notification under Section 4(1) of the said Act: 5<sup>th</sup> March 1998.
- (ii) Survey numbers of the acquired land: 3/7, 3/12, 3/17 and 3/18 of village Maradu.
- (iii) Area of the acquired land: 39.21 Ares of dry land.

- (iv) Market value of the acquired land fixed by the Award under Section 11 of the said Act: Rs.85,543/- per Are for dry land.
- (v) Market value of the acquired land fixed by the Civil Court in a Reference under Section 18 (1) of the said Act: Rs.1,20,000/- per Are for dry land.
- (vi) Market value of the acquired land fixed by the High Court: Rs.1,50,000/- per Are for dry land.

3. In Civil Appeal arising out of Special Leave Petition No. 387 of 2013, the Land Acquisition Officer while making an award under Section 11 of the said Act categorized the acquired lands into six categories. Category 'A' was of the dry lands having direct frontage on National Highway No.47. Category 'B' was of the wet reclaimed lands with road frontage and access to the river through a reclaimed portion of the river, Category 'C' was of the reclaimed wetlands having river frontage, Category 'D' was of the lands with thodu and chira having road frontage, Category 'E' was of the wetlands with thodu and chira having access to the river through reclaimed portion and Category 'F' was of the lands covered by private roads or common drainage. In the present case, we are concerned with Category 'B' lands for which the market value of Rs.85,543/- was fixed under Section 11 of the said Act. At the instance of the appellants, a Reference under Section 18(1) of the said Act was

filed. The Reference Court fixed the land value of the acquired land subject matter of the appeal at Rs.1,20,000/- per Are. This market value was fixed on the basis of the land value fixed for Category 'C' lands by adding 5% to the value fixed for Category 'C'. The High Court in Appeal decided the value of lands falling in Categories 'A', 'B', 'C', 'D' and 'E' by adopting formula 100:52:48:43:39. The land value of the land in Category 'B' was fixed by the High Court at Rs.1,50,000/- per Are. This was done in the appeal preferred by the landowners.

### **SUBMISSIONS**

4. In support of Appeal Nos.2825, 2826 and 2827, the learned counsel appearing for the appellants submitted that the High Court has given no reasons for reducing the market value of the dry lands to Rs.34,158/- per Are. The Reference Court on the basis of comparable exemplars in the form of its own decisions had fixed the market value of the acquired lands. The reasons recorded by the Reference Court have not been upset by the High Court. Further submission of the appellant in Civil Appeal No.2825 of 2011 is that no reasons have been assigned by the High Court for reducing the market value of the wetlands to Rs.1,500/- per Are. The learned counsel appearing for the first respondent supported the impugned Judgment and order.

5. In support of the Civil Appeal arising out of Special Leave Petition No. 387 of 2013, the learned counsel for the appellants submitted that the ratio of 100:52:48:43:39 is completely erroneous. He pointed out that Category 'C' was of reclaimed lands having river frontage and Category 'B' was of the reclaimed lands having road frontage and access to the river. Therefore, the ratio fixed for 'B' Category land ought to have been much more than 52. The learned counsel appearing for the respondents supported the impugned Judgment and order.

### **CONSIDERATION OF SUBMISSIONS**

6. Firstly, we will deal with the submissions made in Civil Appeal Nos.2825, 2826 and 2827 of 2011. The References under Section 18(1) of the said Act subject matter of Civil Appeal Nos.2826 and 2827 of 2011 were decided by a common judgment. We have carefully perused the common Judgment of the Reference Court. The appellants relied upon a Judgment of the Reference Court (Exhibit A-4) by claiming that it was in the case of a comparable land. An Expert was appointed as the Court Commissioner to ascertain similarities and dissimilarities between the lands involved in both the cases and the land subject matter of Exhibit A-4. The Commissioner opined that the lands subject matter of these appeals were comparable with the land subject matter of Exhibit

A-4. The market value of the land subject matter of Exhibit A-4 was Rs.75,000/- per Are. The Reference Court found that the land subject matter of Exhibit A-4 was better located than the acquired lands. Therefore, the Reference Court deducted 20% from the rate of Rs.75,000/- per Are and fixed the market value of the acquired lands at Rs.60,000/- per Are. A perusal of the impugned Judgment and order of the High Court shows that the finding of the Reference Court that the land subject matter of Exhibit A-4 was comparable with the acquired lands has not been upset. In paragraph 3 of the impugned Judgment, the High Court, without recording any reasons, fixed the market value of the acquired land at Rs.34,158/-. No reasons have been assigned for disturbing the market value of the dry lands fixed by the Reference Court at Rs.60,000/- per Are. Therefore, to that extent, the impugned Judgment and order will have to be set aside and the market value of the dry lands at the rate of Rs.60,000/- per Are fixed by the Reference Court will have to be restored.

7. Now coming to Civil Appeal No.2825 of 2011, the Reference Court, after considering the evidence, found that its Judgment at Exhibit A-2 was in respect of a similarly situated and comparable land from the same village. As per the said Judgment Exhibit A-2, the Reference Court fixed the market value of the dry land at the rate of Rs.40,000/- per

Are. Therefore, the Reference Court fixed the market value of the dry land admeasuring 0.80 areas at Rs.40,000/-. The High Court, by the impugned Judgment and order, has brought down the market value to Rs.34,158/- per Are. The High Court has not recorded any reasons for disturbing the finding of the Reference Court about the market value of the dry land in this case. The market value of the dry land fixed by the Reference Court is on the basis of the market value fixed by the Reference Court in respect of a comparable land. Therefore, to that extent, the impugned Judgment and order of the High Court will have to be set aside.

8. As regards the wetland subject matter of Civil Appeal No. 2825 of 2011, we find that without recording any reasons, the Reference Court fixed the market value of the wetland at 25% of the market value of the dry land. As can be seen from the Judgment of the Reference Court, there is no basis for this conclusion. Therefore, it is not possible to restore the rate fixed by the Reference Court. As noted earlier, by the Award under Section 11 of the said Act, a market value of Rs.370/- per Are was granted in respect of the wetland. The High Court, by the impugned Judgment and order, fixed the market value of the wetland at Rs.1,500/- per Are. The High Court has not given reasons for fixing the market value at Rs.1,500/- per Are. The first respondent has not chosen

to challenge the rate fixed by the High Court in respect of wetland. There is no material on record to enhance the rate. Hence, the market value of the wetland will have to be taken at Rs.1,500/- per Are.

9. Now we come to the Civil Appeal arising out of SLP (Civil) 387 of 2013. We have already noted that the lands acquired for setting up Inland Water Transport Terminals were divided into various Categories. The Reference Court fixed the market value of Category 'C' lands at Rs.1,20,000/- per Are. By adding 5%, the market value of Category 'B' land was fixed at Rs.1,26,000/- by the Reference Court.

10. The High Court enhanced the market value of Category 'C' lands to Rs.1,40,000/- per Are and Category 'B' lands to Rs.1,50,000/- per Are. The only reason for this enhancement which can be gathered from the Judgment is that as the market value of Category 'A' lands was fixed at Rs.2,90,000/- per Are, the market value of Category 'B' lands was arrived at Rs.1,50,000/- being 52% of Rs.2,90,000/-. The first respondent has not challenged the Judgment of the High Court.

11. It is well settled that fixation of market value in a Reference under Section 18(1) of the said Act necessarily involves some guesswork. However, the guesswork is required to be made by adopting one of the well-recognized methods, such as the comparison method or

capitalization method. Category 'A' lands were dry lands having frontage on National Highway No.47. Category 'B' was of reclaimed lands with road frontage which had access to the river through the reclaimed portions. Considering these factors, in the facts of the case, it is not possible to find fault with the approach of the High Court of fixing the market value of Category 'B' lands at 52% of the market value fixed for Category 'A' lands. Therefore, there is no scope to interfere with the Judgment of the High Court.

12. Accordingly, we pass the following Order :-

- (i) Civil Appeal Nos. 2826 and 2827 of 2011 are allowed and the market value of the dry lands fixed by the Reference Court at Rs.60,000/- per Are is restored;
- (ii) Civil Appeal No. 2825 of 2011 is partly allowed by setting aside that part of the impugned Judgment and order by which market value of Rs.40,000/- per Are of dry land was reduced to Rs.34,158/-. The market value of the dry land at the rate of Rs.40,000/- per Are fixed by the Reference Court is restored. However, the finding of the High Court that the market value of the wetland was Rs.1,500/- per Are is confirmed;
- (iii) In Civil Appeal Nos. 2825, 2826 and 2827 all of 2011, the appellants will be entitled to statutory benefits in accordance with

sub-section (1-A) of Section 23, sub-section (2) of Section 23 and Section 28 of the said Act;

(iv) Civil Appeal arising out of Special Leave Petition No. 387 of 2013 is hereby dismissed; and

(v) There will be no order as to costs in the appeals.

.....J  
(AJAY RASTOGI)

.....J  
(ABHAY S. OKA)

**New Delhi;  
December 10, 2021.**