

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6396 OF 2014

[Arising out of Special Leave Petition (Civil) No.31619 of 2012]

Rajesh Valel Puthuvalil & Anr. .. Appellant(s)

-vs-

Inland Waterways Authority
of India & Anr. .. Respondent(s)**J U D G M E N T****C. NAGAPPAN, J.**

1. Leave granted.
2. This appeal is preferred against the judgment and final order dated 30.3.2012 passed by the High Court of Kerala at Ernakulam in L.A.A. no.995 of 2010.
3. The property of the appellants herein, both land and structures situated at Alappad Village at Karunagappally Taluk

of Kollam District was acquired at the instance of respondent no.1 herein, for the purpose of widening the narrow stretches of National Waterways no.3 and award came to be passed. Dissatisfied with the award the appellants/claimants preferred reference and the Reference Court re-determined the land value and the value of the building, by enhancing it. Challenging the same, respondent no.1 herein preferred appeal and the High Court confirmed the land value re-determined by the Reference Court and at the same time reduced the value of the structures from a sum of Rs.4,45,000/- to a sum of Rs.3,50,000/-. Aggrieved by the same the appellants/claimants have preferred the present appeal.

4. The learned counsel for the appellants strenuously contended that the High Court committed an error in reducing the compensation for the building on the basis of guess estimate discarding the objective material in the form of Ext.C-3 Valuation Report available on record, resulting in grave injustice to the appellants. Per contra, the learned counsel appearing for the respondents contended that the

High Court taking into account the total area and the year of construction has re-determined the value of the structures and it does not call for any interference.

5. Admittedly, the total area of the building was 758 Sq. ft. and the Land Acquisition Officer awarded a sum of Rs.1,43,430/- towards value of structure. No records were produced to show as to how the said valuation was made by the respondents. In the Reference Court the appellants herein/claimants took out a Commission to fix the value of the building and the Commissioner was assisted by AW-2 a retired Assistant Executive Engineer who valued the building and prepared Ext.C-3 Valuation Report and Ext.C-4 Plan. Ext.C-1 and C-2 are Mahazar prepared by the Commissioner and his Report respectively. The value of the building was assessed at Rs.4,93,000/- and as the building was 12 years old, depreciation was calculated and after deduction the net value was arrived at Rs.4,45,000/- and the Reference Court accepted the same. The High Court held that having regard to the cost of construction of the building in the year 1997 the value of construction fixed by the Reference Court is on the

higher side and re-fixed the value of the building at Rs.3,50,000/- on guess estimate. In the facts of the case, we find force in the submission of the learned counsel for the appellants that guess estimate is not warranted when material evidence in the shape of Ext.C-3 Valuation Report is available on record. As already seen, there is no rebuttal evidence adduced by the respondents insofar as the valuation of the building is concerned and the High Court committed error in resorting to guess estimate for reducing the value of the building and the impugned judgment in this regard is liable to be set aside.

6. The appeal is allowed and the impugned judgment of the High Court insofar as re-fixing the value of structures concerned is set aside and its determination made by the Reference Court is restored. No costs.

.....J.
(T.S. Thakur)

.....J.
(C. Nagappan)

**New Delhi;
July 15, 2014.**