



2026:KER:29980

W.P.(C) No. 33109/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

MONDAY, THE 6TH DAY OF APRIL 2026 / 16TH CHAITHRA, 1948

WP (C) NO. 33109 OF 2025

PETITIONERS:

- 1 SREEKUMAR M.R, AGED 58 YEARS, S/O. RAMAKRISHNA PILLAI, PULIMANAMADOM, CHAVARA P.O, KOLLAM, ROOM NO: 1 OF SANKARAMANGALAM AMANKULANGARA DEVASWOM SHOPPING COMPLEX, KAMANKULANGARA, PANMANA VILLAGE, KARUNAGAPPALLY, PIN - 691583
- 2 ANIL KUMAR, AGED 48 YEARS, S/O. ARAVINDAKSHAN, KULATHINTEKIZHAKKATHIL, CHITTOR PANMANA, CHAVARA P.O, KOLLAM, ROOM NO: 2 OF SANKARAMANGALAMKAMANKULANGARA DEVASWOM SHOPPING COMPLEX, KAMANKULANGARA, PANMANA VILLAGE, KARUNGAPPALLY., PIN - 690518
- 3 B.CHANDRIKAMMA, AGED 69 YEARS, W/O. CHANDRASEKHARAN PILLAI, VALALIL VEEDU, KESAVAPURAM, KARUNAGAPPALLY P.O, KOLLAM, ROOM NO:3 OF SANKARAMANGALAMKAMANKULANGARA DEVASWOM SHOPPING COMPLEX, KAMANKULANGARA, PANMANA VILLAGE, KARUNAGAPPALLY., PIN - 690518
- 4 R.KRISHNA KUMAR, AGED 51 YEARS, S/O. S. RAMANKUTTY, RADHAKRISHNANILAYAM, PANMANA, CHAVARA, P.O KOLLAM, ROOM NO: 4 OF SANKARAMANGALAMKAMANKULANGARA DEVASWOM SHOPPING COMPLEX, KAMANKULANGARA, PANMANA VILLAGE, KARUNAGAPPALLY., PIN - 690518
- 5 SINDU.L, AGED 49 YEARS, W/O. SREEKANDAN UNNITHAN, POOYAMTHARATHEKKATHIL, THOTTINUVADAKKU, CHAVARA P.O,



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KOLLAM, ROOM NO:12 OF SANKARAMANGALAMKAMANKULANGARA
DEVASWOM SHOPPING COMPLEX, KAMANKULANGARA, PANMANA
VILLAGE, KARUNAGAPPALLY., PIN - 690518

BY ADVS.
SRI.C.UNNIKRISHNAN (KOLLAM)
SRI.D.JAYAKRISHNAN
SHRI VIJAYKRISHNAN S. MENON
SHRI.VIVEK NAIR P.
SHRI.M.R.RADHAKRISHNAN
SHRI.K.S.ARAVIND
SHRI.G.GOWARDHAN DEV G. NAIR
SHRI.V.ASWIN
SHRI.GAUTHAM HRITHEEKAAR S.
SMT.BINITHA MARIA THOMAS
SHRI.SHIBU S.
SMT.GARGI RAMACHANDRAN

RESPONDENTS:

- 1 TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, DEVASWOM HEAD QUARTERS,
NANDANCODE, THIRUVANANTHAPURAM, PIN - 695003
- 2 THE ASSISTANT DEVASWOM COMMISSIONER
TRAVANCORE DEVASWOM BOARD, KARUNAGAPPALLY DEVASWOM
GROUP, KARUNAGAPPALLY, PIN - 691583
- 3 SUB GROUP OFFICER, KAMANKULANGARA DEVASWOM, DEVASWOM
OFFICE OF TRAVANCORE DEVASWOM BOARD, SANKARAMANGALAM,
KARUNAGAPALLY, PIN - 691583

BY ADV SRI.G.SANTHOSH KUMAR (P).

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.04.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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JUDGMENT

K.V. Jayakumar, J.

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following reliefs:

- i. Issue a writ of certiorari or any other appropriate writ, order, or direction, quashing the impugned demand notices Exhibit.P4, P4(a), P4(b), P4(c) & P4(d) and the consequent RR notices Exhibit.P7, P7(a), P7(b), P7(c) & P7(d);
- ii. Declare that the petitioners are not liable to pay any rent arrears from the period from June 2020 to November 2023 to the TDB, in view of the acquisition of the premises and vesting the same pursuant to S.3D notification with NHAI and cessation of ownership of TDB;
- iii. Issue a writ of mandamus or appropriate direction commanding the respondents to consider and pass orders on the objections Ext.P5 submitted by the petitioners and keep the coercive proceedings pending till such time.

2. The petitioners state that they were the licensees occupying and conducting business in various shoprooms in Kamankulangara Devaswom Shopping Complex, Chavara, from 2003.

3. The petitioners further state that the 2nd respondent, the Assistant Devaswom Commissioner, Travancore Devaswom Board, issued notices dated 15.06.2020 demanding an enhanced rate of rent and an additional deposit from the petitioners. Challenging the action of the 2nd respondent, the petitioners



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preferred W.P.(C) No. 17369 of 2020 seeking to quash the said demand notices. On 08.11.2022, this Court disposed of the said Writ Petition vide Ext.P1 judgment on the basis of the submission made by the then counsel for the petitioners and the Standing Counsel for the Travancore Devaswom Board that the shopping complex had been demolished.

4. Subsequently, the Devaswom Board has filed R.P. Nos. 1077 of 2023 and 1270 of 2023 wherein this Court found that the said shopping complex was not demolished on that date. The petitioners have produced a copy of the order dated 09.04.2024 in the R.P. Nos. 1077 of 2023 and 1270 of 2023. The petitioners further submit that their former counsel made wrong and incorrect submissions before this Court without their knowledge or consent.

5. Sri. Unnikrishnan C., the learned counsel for the petitioners, submitted that since the Travancore Devaswom Board has received the entire compensation with effect from 09.06.2020, the date of 3-D notification issued under the National Highways Act, 1956. They are legally precluded from claiming any rent from the petitioners, inasmuch as the property has vested in the National Highways Authority of India (NHAI) and the Travancore Devaswom Board has ceased to have any ownership rights.

6. In view of the 3-D notification issued by the competent authority under the Act, the claim of the respondents for arrears of rent is not legally



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sustainable. The learned counsel submits that Ext. P4 series demand notices, and Ext. P7 series notices under the Revenue Recovery Act, issued by the 2nd Petitioner, the Assistant Devaswom Commissioner, are liable to be quashed. The learned counsel for the petitioners would further submit that, although the petitioners had submitted Ext. P5 series of objections before the Assistant Commissioner, the same were not considered. The learned counsel for the petitioners further asserted that they had ceased to occupy the shop rooms in June 2020, consequent to the 3-D notification.

7. The respondents 1 to 3 have placed on record a counter affidavit contending that the Board has to ensure that proper rental/license fee is generated from the shop rooms as per the law laid down by this Court in **H.N. Vijayan v. Travancore Devaswom Board**¹.

8. The learned Standing Counsel for the Travancore Devaswom Board, Sri. G. Santhosh Kumar submitted that though the notice under Section 3-A was received by the Devaswom authorities from the Competent Authority, the actual surrender and demolition of the building took place in the year 2023. The learned Standing Counsel for the Board asserted that the petitioners have not surrendered the shop rooms to the Board and they continued their possession till November 2023. Further, the Board is entitled to realise the arrears of rent till

¹ 2022 KER 50584



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November 2023 from the petitioners, so long as the tenants occupied the shoprooms.

9. We have heard the submissions of Sri. Unnikrishnan C., the learned counsel for the petitioners and Sri. G. Santhosh Kumar, the learned Standing Counsel for the Travancore Devaswom Board.

10. The sole question that arises for our consideration is whether a tenant is liable to pay rent/license fee to the landlord, after 3-D notification issued by the competent authority under the National Highways Act, 1956 up to the actual date of surrender of the shoprooms or its demolition?

11. The landlord-tenant relationship and the execution of the rent deeds are admitted by the parties. Ext.P3 series are the License Deeds executed between the 2nd respondent and the petitioners. Though these deeds were styled as licence deeds, on going through the deeds we find that, the transactions between the parties is essentially a lease. Admittedly, Section 3-A notification was issued in the year 2020. The actual surrender of the building by the Travancore Devaswom Board was in November 2023.

12. According to the learned counsel for the petitioners, on the date of notification issued under Section 3-D, the Travancore Devaswom Board ceases to be the owner of the shopping complex and consequently, they are not entitled to claim rent/arrears of rent from the tenants.



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13. Per contra, the learned Standing Counsel pointed out that even after the 3-D notification, the petitioners continued to occupy the shop room of the complex and they are tenants by holding over and are bound to remit the rent/enhanced rent as per the terms of the license deed. The rent agreement is between the licensor and the licensee and it is the duty of the tenant to pay as per the deed and to continue to pay the license fee until they surrender the shoprooms or until the competent authority takes actual possession of the shopping complex.

14. Before further discussion, it may be useful to extract Section 3 of the National Highways Act, 1956 (the 'NH Act' for the sake of brevity) and the relevant provisions of the Transfer of Property Act, 1882.

Relevant provisions of NH Act, 1956.

"3. **Definitions** - In this Act, unless the context otherwise requires,-

(a) "**competent authority**" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification;

(b) "**land**" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.

3-A. Power to acquire land, etc. -

(1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to



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acquire such land.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

3-B. Power to enter for survey, etc.- On the issue of a notification under sub-section (1) of section 3-A, it shall be lawful for any person, authorised by the Central Government in this behalf, to -

- (a) make any inspection, survey, measurement, valuation or enquiry;
- (b) take levels;
- (c) dig or bore into sub-soil;
- (d) set out boundaries and intended lines of work;
- (e) mark such levels, boundaries and lines by placing marks and cutting trenches; or
- (f) do such other acts or things as may be laid down by rules made in this behalf by that Government.

3-C. Hearing of objections.- (1) Any person interested in the land may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 3-A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation. For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961).



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(3) Any order made by the competent authority under sub-section (2) shall be final.

3-D. Declaration of acquisition-(1) Where no objection under sub-section (1) of section 3-C has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land should be acquired for the purpose or purposes mentioned in sub-section (1) of section 3-A.

(2) **On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.**

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 3-A for its acquisition but no declaration under sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect:

Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 3-A is stayed by an order of a Court, shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any Court or by any other authority.

3-E. Power to take possession-(1) Where any land has vested in the Central Government under sub-section (2) of section 3-D, and the amount determined by the competent authority under section 3-G with respect to such land has been deposited under sub-section (1) of section 3-H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to



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the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply-

(a) in the case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District,

and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.

3-F. Right to enter into the land where land has vested in the Central Government.- Where the land has vested in the Central Government under section 3-D, it shall be lawful for any person authorised by the Central Government in this behalf, to enter and do other act necessary upon the land for carrying out the building, maintenance, management or operation of a national highway or a part thereof, or any other work connected therewith."

15. We have carefully gone through the Sections 3A to F of the NH Act. Section 3-A empowers the Central Government to issue notification declaring its intention to acquire any land for the purpose of construction of National Highway. Section 3-B empowers the authorised person to conduct inspection, survey and measurement of the land. Section 3-C of the Act states that the persons interested in the land shall file objections to the competent authority with regard to Section 3-A notification. After considering the objections filed by the persons interested, the competent authority submits a report to the Central Government



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and thereafter the Central Government shall, by a notification, make a declaration under Section 3-D of the Act that the land should be acquired for the purpose mentioned in Section 3-A(1). Subclause (2) of Section 3-D provides that on the publication of the declaration under Section 3-D(1), the land shall vest absolutely in the Central Government free from all encumbrances. Subsection (4) states that a declaration under Section 3-D(1) shall not be questioned in any court of law.

16. Under Section 3-E, the competent authority may issue notice in writing directing the owner or occupier of the land to surrender possession of the land within 60 days of the receipt of said notice. Such notice is issued after compensation determined under Section 3-G and deposited under Section 3-H of the Act. Subsection (2) of Section 3-E says that the competent authority can enforce the surrender of land with the assistance of the Commissioner of Police or the District Collector. By virtue of Section 3-F of the Act, after the vesting of the land in the Central Government under Section 3-D(2), the authorised person can enter into the land for the purpose for which it is acquired.

17. Section 3 of the Act explains the various stages of the acquisition of land or building for the purpose of the construction, maintenance or management of a National Highway, starting from the declaration of intention, submission of objections, vesting of the land and taking possession thereof.



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18. Before we proceed further with the discussion, it would be useful to extract the relevant provisions of the Transfer of Property Act 1882 (for the sake of brevity, 'TP Act') and Kerala Building Lease and Rent Control Act 1965 (for the sake of brevity, 'KBLR Act'). Chapter V, Sections 105-117 of the TP Act contain the general provisions applicable to the lease of immovable property. However, the KBLR Act was enacted with a view to control the lease of buildings in Kerala.

Relevant Provisions of the TP Act

"105. Lease defined.- A lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

Lessor, lessee, premium and rent defined. The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent.

111. Determination of lease.-A lease of immovable property determines-

- (a) by efflux of the time limited thereby;
 - (b) where such time is limited conditionally on the happening of some event-by the happening of such event;
 - (c) where the interest of the lessor in the property terminates on, or his power to dispose of the same extends only to, the happening of any event-by the happening of such event;
-"



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S.116- Effect of holding over. – If a lessee or under-lessee of property remains in possession thereof after the determination of the lease granted to the lessee, and the lessor or his legal representative accepts rent from the lessee or under-lessee, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year, or from month to month, according to the purpose for which the property is leased, as specified in section 106.”

Relevant Provision of KBLR Act

“2(6) - “Tenant” means any person by whom or on whose account rent is payable for a buildings and includes:-

- (i) heir of a deceased tenant, and
- (ii) A persons Continuing in possession after the termination of the tenancy in his favour, but does not include a Kudikidappukaran as defined in the Kerala Land Reforms Act, 1963 (Kerala Act I of 1964), or a person placed in occupation of a building by its tenant, or a person to whom the collection of rents or fees in a public market, cart stand or slaughter house or of rents for shops has been farmed out or leased by a Municipal Council, Municipal Corporation, Township committee or Panchayat.”

19. As per Section 105 of the TP Act, a lease, in short, is the transfer of a right to enjoy the property by the lessor to the lessee on payment of rent promised to be paid. In other words, in a transaction of lease, the right to possess and enjoy the property is transferred by the transferor to the transferee.

20. Section 111 states about the determination of lease. Subclause (c) provides that a lease of immovable property determines where the interest of the lessor in the property terminates.



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21. Now, we will come back to the facts of the instant case wherein the acquisition proceedings were initiated by notification under Section 3-A in the year 2020. After completing the initial steps, the building was actually surrendered in November 2023. According to the learned counsel for the petitioners, the Devaswom Board is entitled to claim rent only up to the notification issued under Section 3-D(1) as the property thereafter vests with the Central Government. Per contra, the learned Standing Counsel for the Board would submit that the order under Section 3-D(1) would not disentitle the Board to collect rent/arrears of rent from the tenant for the tenanted premises.

22. We are unable to accept the contention of the learned counsel for the petitioners that once a notification is issued under Section 3-D(1), the right of the landlord to receive the rent comes to an end. It is true that the title of the land vests with the Central Government as and when a notification is issued under Section 3-D(1) as stipulated under (2). However, on going through Section 3-E of the Act, the delivery of possession is to be made only after the issuance of a notice under Section 3-E(1), that too, after the fixation of compensation and its payment.

23. On going through the Scheme of the Act, even after the notification under Section 3-D, some more steps are to be taken before the delivery or surrender of the possession of the land or building including the fixation and



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disbursement of the compensation. Therefore, there should be some gap between the vesting of the ownership of the land in the Central Government and the actual surrender of possession.

24. The issue involved in this Writ Petition is whether the tenant is bound to pay rent for the interregnum period between 3-D notification and the surrender of possession pursuant to Section 3-E notice.

25. It is pertinent to note that in a lease, the right to enjoy or the possessory right is transferred. Therefore, if the tenant continues to occupy the land or building even after 3-D notification, he is liable to pay rent/arrears of rent to the landlord. The tenant cannot wriggle out of the liability to pay the rent, stating that the ownership has transferred to the Central Government by virtue of 3-D notification.

26. In the instant case, the petitioners would contend that they surrendered the possession of the shoprooms immediately after the 3-D notification. This fact has been controverted by the respondents and they assert that the petitioners have been occupying the building till November, 2023. In other words, the petitioners have not been able to substantiate their primary contention that the building was vacated immediately on the issuance of 3-D notification.

27. The upshot of the above discussion is that a tenant who opts to



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occupy the tenanted premises even after 3-D notification is bound to pay the rent to the landlord so long as he occupies the building or surrenders the possession pursuant to Section 3-E notice. It is trite law that a party to a contract shall not be permitted to enrich himself unjustly at the expense of the other party.

In the light of the above discussion, we are of the considered view that the reliefs claimed in the Writ Petition cannot be granted. The Writ Petition is dismissed. It is made clear that the petitioners can pursue their remedy in the proper forum, if so advised.

Sd/-

**RAJA VIJAYARAGHAVAN V
JUDGE**

Sd/-

**K. V. JAYAKUMAR
JUDGE**

BR/Sbna



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APPENDIX OF WP(C) NO. 33109 OF 2025

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE JUDGMENT IN WP(C) 17369/2020 DATED 8/11/22
- Exhibit P2 THE TRUE COPY OF THE ORDER IN RP 1077/2023 & RP 1270/2023 DATED 9/4/24
- Exhibit P3 A TRUE COPY OF SALE DEED OF LICENCE DATED 12.04.2019 OF THE 1ST PETITIONER
- Exhibit P3(a) A TRUE COPY OF HIS DEED OF LICENCE DATED 12.04.2019 OF THE 2ND PETITIONER
- Exhibit P3(b) A TRUE COPY OF HER DEED OF LICENCE DATED 12.04.2019
- Exhibit P3(c) A TRUE COPY OF SALE DEED OF LICENCE DATED 23.10.2019
- Exhibit P3(d) A TRUE COPY OF SALE DEED OF LICENCE DATED 23.02.2019
- Exhibit P4 A TRUE COPY OF THE NOTICE DATED 25.11.2024, DEMANDING ARREARS OF RENT RS 6,21,538/- FROM THE 1ST PETITIONER
- Exhibit P4(a) TRUE COPY OF THE NOTICE DATED 25.11.2024, DEMANDING ARREARS OF RENT RS. 3,46,148/- FROM THE 2ND PETITIONER
- Exhibit P4(b) A TRUE COPY OF THE NOTICE DATED 25.11.2024, DEMANDING ARREARS OF RENT RS. 3,83,742/- FROM THE 3RD PETITIONER
- Exhibit P4(c) A TRUE COPY OF THE NOTICE DATED 25.11.2024, DEMANDING ARREARS OF RENT RS. 6,74,862/- FROM THE 4TH PETITIONER
- Exhibit P4(d) A TRUE COPY OF THE NOTICE DATED 25.11.2024, DEMANDING ARREARS OF RENT RS. 5,73,281/- FROM THE 5TH PETITIONER
- Exhibit P5 A TRUE COPY OF THE OBJECTION DATED 30.11.2024 SUBMITTED BY THE 1ST PETITIONER
- Exhibit P5(a) A TRUE COPY OF THE OBJECTION DATED 02.12.2024 SUBMITTED BY THE 2ND PETITIONER



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Exhibit p5 (b)	A TRUE COPY OF THE OBJECTION DATED 02.12.2024 SUBMITTED BY THE 3RD PETITIONER
Exhibit p5 (c)	A TRUE COPY OF THE OBJECTION DATED 30.11.2024 SUBMITTED BY THE 4TH PETITIONER
Exhibit P5 (d)	A TRUE COPY OF THE OBJECTION DATED 02.12.2024 SUBMITTED BY THE 5TH PETITIONER
Exhibit P6	A TRUE COPY OF THE PROCEEDINGS OF THE SPECIAL DEPUTY COLLECTOR, LAND ACQUISITION, NATIONAL HIGHWAY AND COMPETENT AUTHORITY, KOLLAM DATED 02.08.2022
Exhibit p7	TRUE COPY OF REVENUE RECOVERY NOTICE DATED 08/08/2025 AND 16/08/2025 ISSUED TO THE 1ST PETITIONER
Exhibit p7 (a)	TRUE COPY OF REVENUE RECOVERY NOTICES DATED 13.08.2025 AND 16.08.2025 ISSUED TO THE 2ND PETITIONER
Exhibit p7 (b)	TRUE COPY OF REVENUE RECOVERY NOTICES DATED 11.08.2025 ISSUED TO THE 3RD PETITIONER
Exhibit p7 (c)	TRUE COPY OF THE REVENUE RECOVERY NOTICES DATED 12.08.2025 ISSUED TO THE 4TH PETITIONER
Exhibit p7 (d)	TRUE COPY OF THE REVENUE RECOVERY NOTICES DATED 16.08.2025 ISSUED TO THE 5TH PETITIONER