



2026:KER:19455

CR

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

TUESDAY, THE 3RD DAY OF MARCH 2026 / 12TH PHALGUNA, 1947

WA NO. 944 OF 2024

**AGAINST THE JUDGMENT DATED 03.06.2024 IN WP(C) NO.7466 OF
2014 OF HIGH COURT OF KERALA**

APPELLANT/PETITIONER IN WP(C):

**N.BHARATHI AMMA, W/O.N.KRISHNAN NAIR,
ANANDABHAVANAM , NEAR VAYANASALA,
PUNUKANNOOR, PERUMPUZHA PO,
KOLLAM DISTRICT, PIN - 691504**

**BY ADVS.
SRI.B.VINOD
SRI.I.V.PRAMOD**

RESPONDENTS/RESPONDENTS IN WP(C):

- 1 STATE OF KERALA, REPRESENTED BY SECRETARY TO
GOVERNMENT, REVENUE DEPARTMENT, GOVERNMENT OF
KERALA, THIRUVANANTHAPURAM 695 001.**
- 2 SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM
- 695 001.**
- 3 THE DISTRICT COLLECTOR, KOLLAM 691 001
PIN 691 001**
- 4 SPECIAL TAHSILDAR, LAND ACQUISITION (KIP),
KOLLAM 691 001, PIN 691 001**
- 5 THE SECRETARY, DEPARTMENT OF IRRIGATION,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM
- 695 001, PIN 695 001**



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ADV.SRI.SHAJAHAN T.K. - SR.GP

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
03.03.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

**CR****JUDGMENT**Devan Ramachandran, J.

The issues presented before us in this appeal are not novel and have, in fact, been considered and answered several times in the past. The question that arises for consideration is whether the owner of a land that has been acquired as per the applicable law can be sought to be restituted or returned on any ground particularly because the purpose for which such action was taken has become impossible or redundant.

2. We will first state the most essential facts:

3. The appellant challenges the judgment of the learned Single Judge because, her prayers in WP(C)No.7466/2014 have been rejected.

4. The appellant points out that, what she has sought for in the Writ Petition was a declaration that the land acquired from her for the purpose of the 'Kallada Irrigation Project' (KIP) has



been done without following due process; with a further plea that Ext.P2 Government Order be quashed, as being contrary to 'legislative policy'. She makes an adscititious plea, that the 1st respondent – State of Kerala, be directed to re-convey the land acquired from her, for the singular reason that the purpose for which it was acquired has been given up, or has not fructified, even after more than 37 years.

5. Sri.B.Vinod – learned counsel for the appellant, conceded that his client had, at no point of time, challenged the acquisition proceedings and that it had been completed by the respondents, with the eligible compensation having been accepted by his client. He also admitted that his client never sought for enhancement. He, however, argued that the specific contention of his client is that the lands have been kept by the Authorities idle, making them a haven for antisocial and deleterious activities, thus having become a nuisance to the society as a whole. He argued that, in such circumstances, the Authorities ought to have



transferred the property back to his client, or to have given her the option to surrender other suitable extents; but that the impediment she faces is Ext.P2 Government Order, thus constraining her to assail that also. He prayed that the impugned judgment be, therefore, set aside.

6. Sri.T.K.Shajahan – learned Senior Government Pleader, however, submitted that, once the acquisition was completed without any demur/challenge from the appellant, the land became that of the Government; and hence, a prayer that it be reconveyed to her, is not tenable, going by the various judgments of the Honourable Supreme Court, including **Commissioner, Corporation of Chennai v. R.Sivasankara Mehta and Another** [2011 KHC 4383]. He then argued that the allegations impelled by the appellant are not factually correct either, because the project has not been given up and a new plan has been drawn up, to use the land for the purpose of ‘KIP’. He then contended that Ext.P2 Government Order cannot be assailed by the appellant because, it



is not in violation of the ‘legislative policy’, but in strict conformity with it, since it only says the land once acquired cannot be given back to the owners even if the purpose for which it had been acquired has not fructified, but can be used for other public purposes, as may be necessary.

7. We notice from the impugned judgment that the learned Single Judge has not entered into the merits of the matter, but has dismissed the Appeal on the ground that the acquisition of the property had become final, without any further residual rights over the land remaining in favour of the appellant. The ratiocination in the judgment unmistakably is that, once a land has become that of the Government consequent to a valid acquisition, it becomes its full owner; consequently vesting it with the right to decide the manner in which it is to be dealt with, thus legally incapacitating the appellant from seeking that it be either re-conveyed to her, or that she be given the option of surrendering alternative lands.



8. We find force in the view of the learned Single Judge because, the Hon'ble Supreme Court has in **State of Kerala v. Bhaskaran Pillai** [1997 (2) KLT 217 (SC)] reiterated that if the specific public purpose behind the acquisition of land has not been achieved, the remaining land could be used for any other public purpose, or even disposed of through public auction.

9. As early as in 1996, *in Chandragauda Ramgonda Patil and Another v. State of Maharashtra and Others* [(1996) 6 SCC 405], the Hon'ble Supreme Court dealt with the same issue, to declare as under:

“We do not think that this Court would be justified in making direction for restitution of the land to the erstwhile owners when the land was taken way back and vested in the Municipality free from all encumbrances. We are not concerned with the validity of the notification in either of the writ petitions. It is axiomatic that the land acquired for a public purpose would be utilised for any another public purpose, though use of it was intended for the original public purpose. It is not intended that any land which remain unutilised, should be restituted to the erstwhile owner to whom adequate compensation was paid according to the market value as on the date of the notification. Under these circumstances, the High Court was well justified in refusing to grant relief in both the writ petitions.”



10. In **Northern Indian Glass Industries v. Jaswant Singh** [2003 KHC 261], the Honourable Supreme Court was dealing with the delay in applying for restitution of possession and found as under:

“In [Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. Pvt. Ltd. and Ors.](#), [1996] II SCC 501, after reviewing the entire case law, this Court held that a person who approaches the court belatedly to question the legality of the notification under [Section 4\(1\)](#), declaration under [Section 6](#) and the award of the Collector under [Section 11](#), shall not be granted relief. Touching the question of delay and laches, in para 29, it is stated that "it is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under [Article 226](#) of the Constitution to quash the notification under [Section 4\(1\)](#) and declaration under [Section 6](#). But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under [Article 226](#).”

11. The afore view was reaffirmed once again in the year 2007, in **T.N.Housing Board v.Keeravani Ammal and Others**



[(2007) 9 SCC 255], to render it apodictic that once the land has been acquired as per law it becomes the property of the State. Thereafter, in **V.Chandrasekaran and Another v. Administrative Officer and Others** [(2012) 12 SCC 133], the Hon'ble Court reiteratingly declared that a land once acquired cannot be restored, even if it is not used for the purpose for which it was acquired. The view of the Hon'ble Supreme Court requires to be read in full, for which, the relevant paragraphs are extracted as below:

***“Land once vested in the Government –
whether can be divested:***

25. It is a settled legal proposition, that once the land is vested in the State, free from all encumbrances, it cannot be divested and proceedings under the Act would not lapse, even if an award is not made within the statutorily stipulated period. [Vide:Awadh Bihari Yadav v. State of Bihar & Ors., (1995) 6 SCC 31; U.P. Jal Nigam v. Kalra Properties (P) Ltd. (Supra); Allahabad Development Authority v. Nasiruzzaman & Ors., [\(1996\) 6 SCC 424](#), [M. Ramalinga Thevar v. State of Tamil Nadu & Ors.](#), (2000) 4 SCC 322; and Government of Andhra Pradesh v. Syed Akbar & Ors., AIR 2005 SC 492).

26. The said land, once acquired, cannot be restored to the tenure holders/persons-interested, even if it is not used for the



purpose for which it was so acquired, or for any other purpose either. The proceedings cannot be withdrawn/abandoned under the provisions of Section 48 of the Act, or under Section 21 of the General Clauses Act, once the possession of the land has been taken and the land vests in the State, free from all encumbrances. (Vide: State of Madhya Pradesh v. V.P. Sharma, AIR 1966 SC 1593; Lt. Governor of Himachal Pradesh & Anr. v. Shri Avinash Sharma, AIR 1970 SC 1576; Satendra Prasad Jain v. State of U.P. & Ors., AIR 1993 SC 2517; Rajasthan Housing Board & Ors. v. Shri Kishan & Ors., (1993) 2 SCC 84 and Dedicated Freight Corridor Corporation of India v. Subodh Singh & Ors., (2011) 11 SCC 100).

27. The meaning of the word 'vesting', has been considered by this Court time and again. In Fruit and Vegetable Merchants Union v. The Delhi Improvement Trust, AIR 1957 SC 344, this Court held that the meaning of word 'vesting' varies as per the context of the Statute, under which the property vests. So far as the vesting under Sections 16 and 17 of the Act is concerned, the Court held as under.-

19....."In the cases contemplated by Sections 16 and 17, the property acquired becomes the property of Government without any condition or ; limitations either as to title or possession. The legislature has made it clear that vesting of the property is not for any limited purpose or limited duration."

28. In *Gulam Mustafa & Ors. v. State of Maharashtra & Ors.*, AIR 1977 SC 448, in a similar situation, this Court held as under:-

"5.....Once the original acquisition is valid and title has vested in the Municipality, how it uses the excess land is no concern of the original owner and cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because



long later the requiring Authority diverts it to a public purpose other than the one stated in thedeclaration.”

29. Similarly, in *State of Kerala & Anr. v. M. Bhaskaran Pillai & Anr.*, (1997) 5 SCC 432, this Court held as under:

“4.....It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution.

(See also: *C. Padma & Ors. v. Deputy Secretary to the Government of Tamil Nadu & Ors.*, (1997) 2 SCC 627; *Bhagat Singh v. State of U.P. & Ors.*, AIR 1999 SC 436; *Niladri Narayan Chandradhurja v. State of West Bengal*, AIR 2002 SC 2532; *Northern Indian Glass Industries v. Jaswant Singh & Ors.*, (2003) 1 SCC 335; and *Leelawanti & Ors. v. State of Haryana & Ors.*, (2012) 1 SCC 66).

30. In *Government of Andhra Pradesh & Anr. v. Syed Akbar (Supra)*, this Court considered this very issue and held that, once the land has vested in the State, it can neither be divested, by virtue of Section 48 of the Act, nor can it be reconveyed to the persons- interested/tenure holders, and that therefore, the question of restitution of possession to the tenure holder, does not arise. (See also: *Pratap v. State of Rajasthan*, AIR 1996 SC 1296; *Chandragaudaj Ramgonda Patil v. State of Maharashtra*, (1996) 6 SCC 405; *State of Kerala & Ors. v. M. Bhaskaran Pillai & Anr.*, AIR 1997 SC 2703; *Printers (Mysore) .Ltd. v. M.A. Rasheed & Ors.* (2004) 4 SCC 460; *Bangalore Development Authority v. R. Hanumaiah*, (2005)



12 SCC 508; and Delhi Airtech Services (P) Ltd. & Anr. v. State of U.P. & Anr. (2011) 9 SCC 354).

31. In view of the above, the law can be crystallized to mean, that once the land is acquired and it vests in the State, free from all encumbrances, it is not the concern of the land owner, whether the land is being used for the purpose for which it was acquired or for any other purpose. He becomes persona non-grata once the land vests in the State. He has a right to only receive compensation for the same, unless the acquisition proceeding is itself challenged. The State neither has the requisite power to reconvey the land to the person- interested, nor can such person claim any right of restitution on any ground, whatsoever, unless there is some statutory amendment to this effect.

12. As far as this particular case is concerned, the appellant expressly concedes that she had not challenged the acquisition at any point of time for the last more than 37 years and that she had, in fact, accepted the compensation without demur; and had not even sought enhancement of its value. In **C.Padma and others v. Dy. Secretary to the Government of Tamil Nadu and Other** [(1997) 2 SCC 627], this aspect was considered by the Hon'ble Supreme Court, to answer to the effect that acquisition of land cannot be challenged after inordinate delay – which was nearly three decades in the said case. The opinion of



the Hon'ble Supreme Court is available in paragraph 5 of the judgement which is as below:

“Moreover, the question stood finally settled 32 years ago and hence the writ petition cannot be entertained after three decades on the ground that either original purpose was not public purpose or the land cannot be used for any other purpose.”

13. The afore view was reiterated in **Northern Indian Glass Industries v. Jaswant Singh**, as evident from paragraph 8 thereof.

14. The afore being so, the prayer of the appellant, that she be given back her land, or be offered the option of surrendering other land, is wholly untenable and cannot be even considered by us from any perspective.

15. Coming to the argument against Ext.P2, we do not see how this will help the appellant because, it is only a Government Order which says that if the original purpose for which a land is acquired does not fructify, then it can be used for any other purpose of the department for which it is acquired; or otherwise, it be surrendered to the Revenue Department.



16. We are certain that the stipulations in Ext.P2 flow in line with the concept of ownership of land by the Government consequent to acquisition, as declared in the afore cited precedents.

17. However, the specific imputation made by the appellant, that the land in question has turned into a hub of antisocial activities requires some attention. It is indubitable that the Government has a duty to ensure that this is not so, being its owner; and cannot leave it – if the assertions of the appellant are true – in a deserted condition, making it a haven or hub for confutative, dangerous or deleterious activities.

18. In such perspective, though we find no reason to intervene with the impugned judgment of the learned Single Judge; we deem it necessary to direct the competent Authority of the Government to ensure that the lands which have been acquired are used and maintained in an apposite manner, without making it a cause of concern for the society.



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Consequently, this Appeal is dismissed; but with a direction to the competent among the respondents to ensure that the land is maintained properly, and put to use, as is statutorily and legally enjoined.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

Sd/-

M.B. SNEHALATHA

JUDGE

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APPENDIX OF WA NO. 944 OF 2024

RESPONDENT EXHIBITS

- Exhibit R3 (a) Letter No.E3/LAR/General dated 19-07-2024
- Annexure R4(a) True copy of Award and Award note passed on 03.02.1995

PETITIONER EXHIBITS

- Exhibit P5 A true copy of the reply received by Mini P. from the Executive Engineers office dated 19/02/2025 under the RTI Act
- Exhibit P5(a) A rough translation of Exhibit P5
- Exhibit P4 The true copy of the information sought by Mini P. dated NIL under the RTI Act from the Executive Engineer of the Kallada Irrigation Project
- Exhibit P4(a) A rough translation of Exhibit P4