



2026:KER:29986

W.P.(C). No.31190 of 2022

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

THURSDAY, THE 26TH DAY OF MARCH 2026 / 5TH CHAITHRA, 1948

WP(C) NO. 31190 OF 2022

PETITIONER:

LAIJU M S
AGED 37 YEARS
S/O. LATE M.K. SUGUNAN, MADATHIYANIPADATH HOUSE,
MARADU P.O., ERNAKULAM - 682 034.

BY ADVS.
SRI.S.SANAL KUMAR (SR.)
SMT.BHAVANA VELAYUDHAN
SMT.T.J.SEEMA

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR, ERNAKULAM
COLLECTORATE, KAKKANADU, KAKKANADU P.O.,
ERNAKULAM - 682 030.
- 2 THE DEPUTY DIRECTOR,
LAND ACQUISITION, ERNAKULAM- 682 030.
- 3 THE SPECIAL TAHSILDAR,
LAND ACQUISITION, NH-III, VYTTILA, KOCHI - 682 019.
- 4 THE CHIEF EXECUTIVE OFFICER [CORRECTED]
KOCHI METRO RAIL LTD, 8TH FLOOR, REVENUE TOWER,
PARK AVENUE, KOCHI-682011.

[THE MANAGING DIRECTOR, KOCHI METRO RAIL LTD., JLN
METRO STATION, KALOOR, KOCHI - 682 017
(ADDRESS OF R4 IS CORRECTED AS PER ORDER DATED
19.10.2022 IN I.A.01/2022 IN WP(C).31190/2020)]



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5 THE KOCHI MUNICIPAL CORPORATION,
REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD,
ERNAKULAM, KOCHI-682011.

BY ADVS.
SRI.JOBY CYRIAC
SMT.V.P.REJITHA (PUZHAKKALIDOM)
SHRI.KURIAN K JOSE
SMT. DEVIKA T.R.

OTHER PRESENT:

GP- RIYAL DEVASSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20.02.2026 AND THE COURT ON 26.03.2026, DELIVERED THE
FOLLOWING:



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“CR”

VIJU ABRAHAM, J.

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Dated this the 26th day of March, 2026

JUDGMENT

The above writ petition is filed challenging Ext.P18 order and seeking a direction to the respondents to extend the benefit of the rehabilitation package or pay compensation to the tune of Rs.6,67,367/- as was paid to similarly placed persons as evident from Exts.P11, P12 and P13.

2. The petitioner was running a bunk shop at Champakkara junction near the Vyttila - Petta road. The bunk was, in fact, started in the year 1970 by his father, late Sri. M.K. Sugunan. The income from the said bunk shop is the sole source of livelihood for the petitioner and his family. Ext.P1 statutory licence was also obtained by the father of the petitioner from the Cochin Corporation for running the bunk. The petitioner's father died on 09.01.2016. After the death of the petitioner's father, the Corporation of Cochin granted licence in the name of the



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petitioner, his two brothers and mother as per Ext.P2. The lease on land was renewed as per Ext.P3, and Ext.P4 is the electricity bills pertaining to the said bunk shop.

3. A proposal emerged for widening the road between Petta and Vyttila in connection with the implementation of the Kochi Metro Rail Project. The bunk shop was situated by the side of the Vyttila- Petta road abutting the same. When the proposal was conveyed to the petitioner by the respondent, he agreed to give vacant possession of the site to the Government without any objection for the implementation of the Kochi Metro Rail Project, subject to his right to get due compensation and other benefits under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act, 2013'). The petitioner would submit that the respondents have paid a compensation of Rs.6,36,000/- to the persons who have lost their business due to the acquisition process, and the petitioner is also entitled to get the same benefit. Thereupon, the petitioner submitted an application before respondents 1 and 3, and in response to Ext.P5 hearing notice, the petitioner submitted Ext.P6 certificate issued by the Corporation of



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Cochin stating that the bunk was being run by the legal representatives of late M.K.Sugunan. The 3rd respondent forwarded Ext.P7 report to the 1st respondent. While so, an attempt was made to evict the petitioner from the property and also tried to demolish the bunk. Thereupon, the petitioner approached this Court, filing W.P.(C)No.6256/2018 against the illegal attempt of eviction, and the said writ petition was disposed of as per Ext.P8 judgment directing the 2nd respondent therein to consider the request made by the petitioner for compensation. Pursuant to the said judgment, the petitioner appeared before the 2nd respondent, and the petitioner handed over Ext.P10 notification containing the package for compensation. The petitioner also produced Ext.P11, the details obtained by him under the Right to Information Act, which would reveal that one Sri. M.T.John was given a rehabilitation compensation of Rs.6,67,367/- towards the demolition of his bunk. Ext.P12 is the order, and Ext.P13 is the communication issued by the Special Tahsildar in this regard. Despite the production of all these documents to substantiate the claim of the petitioner, he was granted only Rs.30,000/- as per Ext.P14 order. On receipt of Ext.P14, another representation was filed by the petitioner as



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Ext.P15. But the claim was rejected, stating that he is entitled to get only Rs.30,000/- as rehabilitation package. Aggrieved by the same, the petitioner approached this Court again filing WP(C) No.8260 of 2019, which was disposed of as per Ext.P17 judgment, wherein this Court has observed that since the petitioner was occupying in puramboke area owned by the Corporation with their permission and on the strength of the license issued, the petitioner cannot be construed as an encroacher and directed reconsideration of the matter. Despite the specific direction issued as per Ext.P17, the claim of the petitioner was rejected as per Ext.P18, stating that the petitioner is not entitled to the compensation payable to the tenants. It is in the said circumstance that the petitioner has approached this Court.

4. A detailed counter affidavit has been filed by the 5th respondent Corporation, wherein it is admitted that the petitioner's father was running the bunk bearing No.113 with license issued by the 5th respondent. Later, the licence was transferred to the name of the petitioner. It is also contended that the petitioner's bunk was situated in Puramboke land and the same is acquired for the purpose of widening the Vyttila - Petta road in connection with the



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Kochi Metro Rail Project. It is further contended that the bunk is situated in a Puramboke land, which is not under the ownership of the Kochi Corporation. The respondent Corporation would also submit that since the licence was issued on condition that the bunk should be removed by the owner on his own expense, at any time, whenever the corporation demands, the petitioner is not entitled to any compensation.

5. A detailed counter affidavit has been filed by the 1st respondent, also contending that the subject bunk is a movable one, i.e., mounted on wheels and can be easily shifted from one place to another, and therefore, the petitioner was not included in the list of persons eligible to get compensation under the Rehabilitation and Resettlement package. As directed in Ext.P8 judgment, the matter was reconsidered and found that the petitioner is entitled to an amount of Rs.30,000/- and the compensation granted to Sri. M.T. John was before the implementation of the Act, 2013 and the lands were purchased by the Government in negotiation with the land owner for the purpose of the Kochi Metro Rail Project. It is further stated that the petitioner, who is an encroacher on the puramboke land, is not



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entitled to any compensation other than the compensation mentioned in Government Order dated 29.12.2017.

6. I have heard the rival contentions on both sides.

7. Admittedly, the bunk in question was functioning in the subject property from 1970 onwards. Earlier, the same was run by the petitioner's father. Ext.P1 is the order issued by the respondent Corporation dated 12.12.1990 wherein Rs.225/-, being the three months' rent, was received as security and the arrears of ground rent at the rate of Rs.75/-, amounting to Rs.1,800/- was also directed to be remitted by the father of the petitioner. In another proceeding dated 29.08.2005 issued by the Corporation, the licence was renewed, wherein also Rs.384/- was directed to be deposited as advance amount, and the ground rent was fixed at the rate of Rs.128/-. After the death of the petitioner's father, by Ext.P2, the licence was transferred in the name of the legal heirs of the deceased Sugunan, including the petitioner, wherein a security deposit of Rs.3,600/- was demanded and six months' rent advance to the tune of Rs.1,800/- was also directed to be remitted by the petitioner. Further, ground rent at the rate of Rs.300/- was also directed to be paid. Ext.P3 series are the receipts issued by the



Cochin Corporation regarding payment of rent, and Ext.P4 is the electricity charges paid by the petitioner. The claim of the petitioner has been finally rejected as per Ext.P18 on a finding that since the property is situated in road puramboke, the petitioner could be treated only as an encroacher and that the petitioner is only entitled for an amount of Rs.30,000/- as compensation, the amount for which an encroacher of a puramboke land is entitled to, as per the resettlement package. I am of the view that the said stand in Ext.P18 that petitioner is an encroacher cannot be accepted, especially in view of the direction issued by this Court in Ext.P17 judgment. Paragraphs 7 to 9 of the said judgment read as follows:

“ 7. The learned Standing Counsel for the Corporation of Kochi affirmed that the area in question belongs to his client as ‘puramboku’ and that the petitioner was running his business on the basis of valid licence. He added that, however, his client has no role to play in computing the compensation payable to the petitioner.

8. When the afore rival contentions are properly evaluated, it becomes luculent that, as per Ext.R3(a) Rehabilitation Package, the persons entitled are listed under several heads. The last of the heads in the said order relates to ‘encroachers who live or run their business on ‘puramboku’ land for a minimum period of three years preceding the date of 4(1) notification under the Right to Fair Compensation and Transparency in Land Acquisition,



Rehabilitation and Resettlement Act, 2013'. It is, therefore, limpid that only those persons who are occupying 'puramboku' land without any sanction and who were so remaining thereon for a minimum period of three years, could be brought under the said classification.

9. However, in the case at hand, it is prima facie evident that petitioner was occupying the 'puramboku' area owned by the Kochi Corporation under their permission and on the strength of a licence issued by them; and therefore, this Court cannot grant imprimatur to the stand in Exts.P14 and P16 that he should be construed to be an 'encroacher'. As long as the petitioner can establish that he was occupying the land under the permission of the Corporation - particularly because same belongs to them - I am certain that he must be given the benefits eligible to similarly placed persons, rather than being construed as an 'encroacher'”

(underline supplied)

Taking into consideration the fact that the petitioner was running the business in the puramboke land owned by the Corporation, under their permission and on the strength of a licence issued by them, the petitioner cannot be construed to be an 'encroacher'. Admittedly, there are documents to show that the petitioner and his predecessor were in possession and enjoyment of the land on the basis of a valid permission granted by the authorities, and on payment of licence fee and ground rent as discernible from Exts.P1 to P3. Therefore, when this Court as per Ext.P17 has been found that the petitioner is not an encroacher, the denial of the claim of



the petitioner as per Ext.P18, holding that the petitioner being an encroacher of the puramboke land is only entitled for Rs.30,000/-, is absolutely without any basis and in fact in violation of the direction issued by this Court as per Ext.P17, which has become final.

8. The further claim of the petitioner is based on Exts.P11 and P12, wherein a person who was running a bunk in the property of the Corporation was granted compensation to the tune of Rs.6,67,367/-. The contention of the learned Government Pleader is that the said case does not relate to compensation under the resettlement package, as the relevant Rules have not been framed. It is further submitted that the compensation in that case was determined based on mutual agreement, and an amount of Rs. 6,67,367/- was paid to one M.T.John.

9. The second schedule of the Act, 2013, provides for a rehabilitation settlement package for affected families, which includes the land owners and the families whose livelihood is primarily dependent on the land acquired, and compensation has been provided under various heads. The learned counsel for the petitioner submits that Ext.P10 is the package for which the



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petitioner is entitled to, which has been notified by the Land Acquisition Deputy Collector, and the Administrator of Kochi Metro Rail Project and the rate fixed in Ext.P10 is consonant with the rate fixed in the second schedule attached to the Act, 2013. But the learned Government Pleader would submit that the Government has finalised a rehabilitation resettlement package for the acquisition of land in the State as per Government Order dated 29.12.2017, and the same is the one applicable to the petitioner. An important aspect to be noted is that the package was finalised, as the Committee decided to slightly deviate from those benefits provided under the second schedule of the Act, 2013 so as to provide more compensation to the affected parties considering the prevailing conditions existing in the State and after serious and deliberate discussions, the Committee unanimously came to the conclusion for providing more assistance than provided as per the second schedule of the Act, 2013. So, the intention of the package is to give more compensation than what is provided as per the second schedule of the Act, 2013. The learned Government Pleader submits that as per Clause 14, the encroachers who live or run their business on puramboke land will be granted Rs.5,000/- per



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month for six months and based on the same, the petitioner is entitled only for Rs.30,000/-, which has been sanctioned by the authorities. The said contention cannot be accepted for more than one reason. The new package by the Government, as per Order dated 29.12.2017, is to provide a better compensation package than one envisaged as per the second schedule to the Act, 2013. Further, the compensation amount of Rs.30,000/- has been fixed, treating the petitioner as an encroacher, which has been repelled by this Court as per Ext.P17 judgment and found that the petitioner continuing on the strength of a licence, cannot be treated as an encroacher. Therefore, the stand taken in Ext.P18 that the petitioner could be treated only as an encroacher and liable only for the compensation amount of Rs.30,000/-, cannot be accepted. Further, it is to be seen that though it was an amount fixed based on the settlement between the parties, one M.T.John was granted compensation to the tune of Rs.6,67,367/-, who was also running a bunk in the property of the Cochin Corporation. On a perusal of Ext.P10 and the Government Order dated 29.12.2017, which is handed over to me by the learned counsel for the petitioner, I am of the view that the compensation for which the



petitioner is entitled to as per Ext P10 notification and the Government Order dated 29.12.2017 are almost similar, had the petitioner not been treated as an encroacher and therefore, I am of the view that the petitioner's claim should be considered in the light of Ext.P10 and the Government Order dated 29.12.2017, without treating the petitioner as an encroacher.

10. Yet another contention raised by the learned Government Pleader is that since this is a Government land, there is no case for any acquisition as such, and since the second schedule attached to the Act, 2013, is in respect of rehabilitation and resettlement package for affected persons due to acquisition, no compensation is due to the petitioner. It is true that the Government land need not be subjected to acquisition proceedings and there is no occasion for payment of any compensation. But the position is totally different when Government land is in possession of a person based on a licence/permission as in the case of the petitioner. In the case in hand, the petitioner has been permitted to occupy the Government land based on a licence/permission, including payment of ground rent and has been in occupation from 1970 onwards. In such cases, even if it is a Government land which



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need not be acquired, the petitioner, when displaced from such land as part of a development activity undertaken by the Government, and the business of running of the bunk, being the only source of livelihood, is affected and which was being conducted by the petitioner/his predecessor for more than 50 years, the petitioner is entitled for the benefit of the rehabilitation package as per Second Schedule of the Act 2013 and the Government Order dated 29.12.2017. Therefore, the said contention of the learned Government Pleader in this regard is only to be rejected. As I have already held that the Government Order dated 29.12.2017 was implemented by the Government for giving a better compensation to the persons affected by acquisition than that is fixed as per the second schedule of the Act, 2013, I am of the opinion that the attempt of the Government treating the petitioner as an encroacher relying on the Government Order dated 29.12.2017 is only to deny the compensation legally due to the petitioner, which cannot be accepted at all.

Consequently, the above writ petition is allowed, and Ext.P18 order is set aside. There will be a direction to the District Collector to grant compensation either as per Ext.P10 notification or based



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on the Government Order G.O.(Ms)No.448/2017/RD dated 29.12.2017, without treating the petitioner as an encroacher as already held by this Court as per Ext.P17 judgment and grant compensation due under various heads as per the order dated 29.12.2017 or as per Ext.P10 notification. A decision in this regard shall be taken after affording an opportunity of being heard to the petitioner, within a period of two months from the date of receipt of a copy of this judgment, and the amount fixed shall be disbursed to the petitioner within a period of one month thereafter.

Sd/-
VIJU ABRAHAM
JUDGE

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APPENDIX OF WP(C) NO. 31190 OF 2022

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE LICENCE ISSUED BY THE COCHIN CORPORATION TO M.K. SUGUNAN, FATHER OF THE PETITIONER
- Exhibit P2 TRUE COPY OF THE LICENCE IN THE NAME OF THE PETITIONER, HIS TWO BROTHERS AND MOTHER ISSUED BY THE COCHIN CORPORATION.
- Exhibit P3 TRUE COPY OF THE RECEIPT EVIDENCING THE LICENCE/LEASE FEES
- Exhibit P4 TRUE COPY OF THE ELECTRICITY BILLS PERTAINING TO THE BUNK SHOP.
- Exhibit P5 TRUE COPY OF THE NOTICE DATED 20.11.2017 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER & OTHERS.
- Exhibit P6 TRUE COPY OF THE CERTIFICATE ISSUED BY THE COCHIN MUNICIPAL CORPORATION DATED 24.11.2017.
- Exhibit P7 TRUE COPY OF THE REPORT SUBMITTED BY THE RESPONDENT TO THE 1ST RESPONDENT DATED 3RD 15.12.2017.
- Exhibit P8 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C) NO. 6256/2018 DATED 28.09.2018.
- Exhibit P9 TRUE COPY OF THE RECEIPT DATED 27.09.2018 EVIDENCING THE SUBMISSION OF COMPLAINT.
- Exhibit P10 TRUE COPY OF THE NOTIFICATION OF THE 2ND RESPONDENT PUBLISHED IN MALAYALA MANORAMA DAILY DATED 07.09.2017.
- Exhibit P11 TRUE COPY OF THE INFORMATION OBTAINED UNDER THE RIGHT TO INFORMATION ACT DATED 07.07.2017.
- Exhibit P12 TRUE COPY OF THE ORDER NO.A3-332/2015 OF THE SPECIAL TAHSILDAR (LA) NO.1, KOCHI METRO RAIL PROJECT, ERNAKULAM DATED 11.09.2015.
- Exhibit P13 TRUE COPY OF THE COMMUNICATION BY THE SPECIAL TAHSILDAR (LA) TO DEPUTY



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COLLECTOR (LA), KOCHI METRO RAIL PROJECT
DATED 31.01.2019.

Exhibit P14 TRUE COPY OF THE ORDER NO.101379/2018 OF
THE 2ND RESPONDENT DATED 27.11.2018.

Exhibit P15 TRUE COPY OF THE REPRESENTATION SUBMITTED
BY THE PETITIONER BEFORE THE DEPUTY
COLLECTOR, METRO RAIL PROJECT DATED
10.01.2019.

Exhibit P16 TRUE COPY OF THE COMMUNICATION OF THE 2ND
RESPONDENT TO THE PETITIONER DATED
22.02.2019.

Exhibit P17 A TRUE COY OF THE JUDGMENT OF THIS
HON'BLE COURT IN WP(C) NO. 8260/2019
DATED 31.1.2022.

Exhibit P18 A TRUE COPY OF THE ORDER OF THE DISTRICT
COLLECTOR DATED 19.8.2022