



2026:KER:34009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

MONDAY, THE 18TH DAY OF MAY 2026 / 28TH VAISAKHA, 1948

OP(C) NO. 1010 OF 2024

AGAINST THE ORDER DATED 12.04.2024 IN I.A.NO.
2/2023 IN LAR NO.29 OF 2023 OF ADDITIONAL DISTRICT COURT,
MANJERI/I ADDITIONAL MACT, MANJERI

PETITIONER(S)/2ND PETITIONER IN I.A.2/2023/NOT A PARTY TO
THE REFERENCE:

SREEJA,
AGED 47 YEARS,
D/O THIRUVANGAT PARAMESWARAN NAMBEESAN,
THIRUVANGAT, CHELEMBRA AMSOM, DESOM, PO.
CHELEMBRA, MALAPPURAM., PIN - 673634

BY ADVS.
SMT.M.R.MINI
SRI.VINOD RAVINDRANATH
SMT.MEENA.A.
SRI.K.C.KIRAN
SRI.M.DEVESH
SHRI.ANISH ANTONY ANATHAZHATH
SHRI.THAREEQ ANVER
SMT.NIVEDHITHA PREM.V
SMT.SREEMAYA P.N.

RESPONDENT(S)/RESPONDENTS AND 1ST PETITIONER/CLAIMANT,
RESPONDENTS AND STRANGER TO THE REFERENCE:

1 MALABAR DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY
ERANHIPALAM, KOZHIKODE, PIN - 673006



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- 2 DEPUTY COLLECTOR AND COMPETENT AUTHORITY,
L.A. (NH), MALAPPURAM., PIN - 676504
- 3 PROJECT DIRECTOR,
NATIONAL, NATIONAL HIGHWAY AUTHORITY,
KOCHI, PIN - 682016
- 4 SUMATHY,
AGED 77 YEARS,
W/O THIRUVANGAT PARAMESWARAN NAMBEESAN,
THIRUVANGHAT, PO.CHELEMBRA,
MALAPPURAM, PIN - 673634
- 5 EXECUTIVE OFFICER,
THIRUVANGAT DEVASWAM CHELEMBRA-PO,
IDIMUZHICKAL MALAPPURAM DISTRICT.
(IMPLEADED AS ADDITIONAL RESPONDENT 5 VIDE
ORDER DATED 21.11.2024 IN IA 1/2024)

BY ADVS.

SMT.R.RANJANIE, SC, MALABAR DEVASWOM BOARD
SRI.P.VENUGOPAL

THIS O.P.(CIVIL) HAVING COME UP FOR ADMISSION ON
18.05.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



‘C.R’

EASWARAN S., J

O.P.(C) No.1010 of 2024

Dated this the 18th day of May, 2026

JUDGMENT

Question raised in the writ petition is ‘Whether the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013(in short Act 30 of 2013) will apply to an acquisition under the National Highways Act 1956 in view of the notification No.S.O. 2368(E) dated 28-8-2015 issued under the provisions of Section 105 of the Act 30 of 2013.

2. Petitioners claim that they are the members of the family of a trustee of Thiruvangat Para Temple, Chelembra Post, Kondotty Taluk, Malappuram District. Certain portions of the property of the Temple was acquired for widening of the National Highway. The land acquired is to an extent of 0.1401 Hectares in Re.Survey No.165/2, Old Survey No.508/6. An amount of Rs.2,04,19,333/- (Rupees Two crore four lakh

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nineteen thousand three hundred and thirty three only) was determined as a compensation by the District Collector under the provisions of the National Highways Act, 1956. The District Collector issued Ext.P5 notice calling for the documents required for ascertaining the right of ownership and possession for awarding the compensation. It appears that the temple is under the custody of the Malabar Devaswom Board, which has appointed the Executive Officer, the 5th respondent in the original petition, to manage its affairs. Since the members of the trustee family did not appear and establish their rights over the affairs of the Temple, the District Collector proceeded to deposit the amount before the District Court-II, Manjeri. The District Court treated the proceedings as a reference under Section 77(2) of the the Act 30 of 2013, and answered the reference by Ext.P6 order by finding that the claimant is entitled to get an amount of Rs.2,04,19,333/- (Rupees Two crore four lakh nineteen thousand three hundred and thirty three only). The claimant- Malabhar Devaswom Board was represented by the

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Executive Officer of the Temple. Surprisingly, the Malabar Devaswom Board did not alert the jurisdictional court that the temple was under the supervision of the Executive Officer and that there were hereditary trustees in respect of the temple. Be that as it may, the resettlement authority, under Ext.P6 order, proceeded to allow the reference in favour of the Malabar Devaswom Board. Subsequently, by Ext.P9 application, the petitioners sought for reopening of the reference since they were not parties to the proceedings. Later, they approached this Court by O.P.(C)No.2742 of 2023, wherein Ext.P10 judgment was rendered directing the jurisdictional court to take up Ext.P9 application and till such time the disbursement was directed to be kept in abeyance. In pursuance of the said directions, the District Court has passed Ext.P11 order declining relief to the petitioners stating that the remedy of the petitioners was to file an appeal against Ext.P6 decree passed in the reference case. Hence, the original petition.

3. Heard Sri.Thareeq Anver K., the learned counsel



appearing for the petitioner, Sri.R.Ranjanie, the learned Standing Counsel for the 1st respondent, Sri.P.Venu Gopal, the learned counsel appearing for the additional 5th respondent and Sri.Unni Krishnan S., the learned Government Pleader for the 2nd respondent.

4. The pointed dispute that requires to be resolved by this Court is as to (i) Whether the petitioners are required to be relegated to the remedy of filing an appeal against Ext.P6 order because the reference was treated as one under Section 77 of the Act 30 of 2013. (ii) Can the provisions of Act 30 of 2013 be applied to an acquisition under the National Highways Act 1956.

5. There is a divergence of opinion among the counsel appearing for the parties as regards the proper remedy of the petitioners. The petitioners, at one hand, assert before this Court that a reference answered under Section 3H(4) of the National Highways Act, 1956 is not appealable.

6. Smt. R. Ranjanie, the learned Standing Counsel for the Malabar Devaswom Board asserts before this Court that



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apart from the assertion that the petitioners are the members of the trustee family, no evidence is available to substantiate the same.

7. Sri.P.Venugopal, learned counsel appearing for the Executive Officer of the Temple asserts before this Court that by virtue of provisions contained under Section 105 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the provisions of the Act are made applicable to the land acquisition proceedings under the National Highways Act, 1956 and that by virtue of the notification dated 28.08.2015, the provisions of the Act are *mutatis mutandis* made applicable to the acquisition under the National Highways Act, 1956 and therefore, remedy of the petitioners is to file an appeal before this Court.

8. Before going into the pointed question raised by the counsels for both sides, this Court must notice that a Division Bench of this court in **Nafeesa and Another v. Deputy Collector and Spl.Land Acquisition Officer, Thrissur and**



Another [2013 (4) KHC 868], held that no appeal is maintainable from an order answering the reference under Section 3H(4) of the National Highways Act, 1956. Therefore, on that point no further deliberation is required.

9. Now the question to be considered is whether the principles laid down by this Court in **Nafeesa and Another (supra)** is obliterated by virtue of the provisions contained under Act 30 of 2013 especially since issuance of the notification dated 28.08.2015.

10. A perusal of the notification dated 28.08.2015 shows that the same is issued under Section 105 of the Act 30 of 2013. Section 105 reads as under:

105. Provisions of this Act not to apply in certain cases or to apply with certain modifications.—(1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of section 106, the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government shall, by notification, within one year from the date of



commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

11. It is beyond cavil that, but for the notification under Section 105 of the Act, the acquisition under the

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National Highways Act 1956 is governed purely by the provisions of the said Act and nothing else will apply. Now the question to what extent the Act 30 of 2013 applies once a notification is issued under Section 105.

12. It must be remembered that the provisions of Act 30 of 2013 applies under two heads; (a) determination of compensation (b) procedure before the resettlement authority. No doubt the resettlement authority is given power to decide the question of apportionment. But when we see Section 105 of the Act 30 of 2013 it is clear that the purpose of notification is to make the provisions of the Act applicable towards determination of compensation so that the land owners are not deprived of their valuable right of compensation for the land acquired. When proceedings for acquisition of land are initiated under the provisions of National Highways Act 1956, it will be farfetched to hold that once the compensation is determined, further proceedings continues to be governed by the provisions of Act 30 of 2013. It must be remembered that the National Highways Act 1956

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and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 intend to operate in different fields and that there cannot be a cross application of the both the Act.

13. A perusal of the notification dated 28-8-2015 makes it clear that the same intends to make the provisions of the Act relating to the determination of compensation, rehabilitation and resettlement applicable to the cases of land acquisition under the National Highways Act 1956.

14. Still further, the procedures prescribed under the National Highways Act, 1956 as well as under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 are entirely different and stand from different footings altogether. When a dispute arises as regards the apportionment of the amounts in respect of land acquired under National Highways Act 1956, the reference is to be made under Section 3(H)(4) before the Principal Civil Court of Original Jurisdiction which means the principal District Court.



15. Turning to Section 77 of the Act 30 of 2013, it is evident that in respect of acquisition taken under the Act the reference is before the resettlement authority constituted under Section 51 of that Act. Therefore, in a given case, even if the compensation is determined in respect of a land acquired under the National Highways Act 1956, by following the procedure prescribed under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, a reference cannot be made under Section 77. If a dispute arises as regards who are all entitled to receive the compensation, the Collector has no other option but to make a reference under Section 3(H)(4) of the National Highways Act 1956 to the Principal Civil Court of the District.

16. In fact, a perusal of Ext.P5 would specifically show that the competent authority has issued a notice under Section 3G(3) of the National Highways Act, 1956, to the concerned person to produce the documents to establish the ownership and possession over the property for claiming compensation. Therefore, at no point of time, the



proceedings initiated and that led to Ext.P6 order made any reference to the provisions of Act 30 of 2013.

17. Be that as it may, a perusal of Ext. P6 Judgment in LAR No.29 /2023 shows that the reference was treated as one under Section 77 and was decided by the resettlement authority which is impermissible and without Jurisdiction. That be so, this Court cannot subscribe to the contention raised on behalf of the Additional 5th respondent, the Executive Officer of the Temple, and hold that the order passed on the reference made under Ext.P6 is directly relatable to the provisions under Act 30 of 2013.

18. Next, it is decided whether the petitioner should be relegated to filing of appeal under Section 69 of the Act 30 of 2013 since Ext.P6 order is purported to be issued in exercise of power under Section 77 of the Act. Once it is concluded that the reference itself was not possible under Section 77, the consequential order attains no efficacy of law is a nullity. That apart, even a reference under Section 3(H)(4) of the National Highways Act 1956 alone is possible, and that an appeal is not

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provided in respect of a reference under Section 3H(4) of the National Highways Act, 1956, there is no gainsay in contending that the remedy of the petitioners is to prefer an appeal against Ext.P6 order.

19. Now this Court must decide whether an award could be set aside by filing an interlocutory application? It is true that the petitioners could have directly approached this Court by challenging Ext.P6 award passed by the jurisdictional court since it is without jurisdiction. But, the fact remains that they filed an application to recall the award by permitting them to implead in the proceedings and to establish their case. In the interest of justice, the District Court-II, Manjeri ought to have allowed the application allowing the petitioners to implead themselves in the reference case and answer the reference in terms of the evidence produced by them.

20. At this point, Smt.Ranjanie, learned Standing Counsel for the Malabar Devaswom Board asserted before this Court that apart from the vague assertions in the affidavit accompanying the application, no evidence is adduced. The

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question of adducing evidence would arise only after the impleadment of the petitioners. If, as a matter of fact, the petitioners are unable to produce the evidence, nothing prevents the reference court from non-suiting them on that ground. Therefore, at this point of time, this Court does not deem it fit to consider the said objection.

21. That takes this Court to decide the extent of relief to which the petitioners are entitled to. It is brought to the notice of this Court that the award was passed without impleading the proper parties and that the Executive Officer was also not a party, but, the Malabar Devaswom Board alone was made as a claimant. In the interest of justice, it would suffice if the petitioners are given an opportunity to contest the matter. At any rate, the amount now deposited stands to the credit of the Temple and it can be utilized only for the betterment of the Temple and neither the Malabar Devaswom Board, the Executive Officer, nor, for that matter, the members of the trustee family have any right over the same. In view of that fact, this Court is inclined to exercise its



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powers under Article 227 of the Constitution of India and intervene in the proceedings impugned in this Original Petition. Further, this court is satisfied that Ext.P6 order has been rendered without Jurisdiction and hence powers under Article 227 of the Constitution of India are to be invoked *suo motu* to set aside Ext.P6 decree in L.A.R.No.29 of 2023 and also set aside Ext.P11 order passed in I.A.No.2 of 2023 in L.A.R.No.29 of 2023. Accordingly, the original petition is allowed setting aside Exts.P6 and P11 orders. L.A.R.No.29 of 2023 will stand restored to the file of the District Court-II, Manjeri. The application for impleading (Ext.P9) stands allowed and the petitioner shall stand impleaded as additional 5th respondent. She will be at liberty to adduce such evidence to substantiate the claim. The District Court Manjeri is directed to pass fresh orders in the reference by treating the same as under Section 3(H)(4) of the National Highways Act 1956. The District Court, Manjeri shall decide the reference not later than six months from the date of receipt of the copy of the judgment. Till such time, the



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amount, which is now lying in deposit in the nationalized bank shall be kept as such. The further disbursement of the amount shall depend upon the orders to be passed by the District Court as directed above. The parties are directed to appear before the District Court, Manjeri on 3-6-2026.

Ordered Accordingly.

Sd/-

EASWARAN S.
JUDGE



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APPENDIX OF OP(C) NO. 1010 OF 2024

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE PLAINT IN O.S. 59/2016 ON THE FILE OF SUB COURT, TIRUR DATED 20.08.2016
- EXHIBIT P2 TRUE COPY OF THE DETAILED WRITTEN STATEMENT DATED 22.02.2017
- EXHIBIT P3 TRUE COPY OF THE RELEVANT PAGES OF SETTLEMENT REGISTER OF CHELEMBRA AMSOM ISSUED BY SPECIAL SETTLEMENT OFFICER.
- EXHIBIT P3 (A) TRUE COPIES OF THE RELEVANT PAGE OF SETTLEMENT REGISTER OF CHELEMBRA AMSOM ITEM NO.508
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT ON 15.03.2021
- EXHIBIT P5 TRUE COPY OF PROCEEDINGS DATED 03.09.2021
- EXHIBIT P6 TRUE COPY OF THE AWARD PASSED BY DISTRICT JUDGE, MANJERI IN LAR 29/2023 DATED 25.08.2023
- EXHIBIT P7 TRUE COPY OF DECREE IN LAR NO.29/2023 DATED 25.08.2023.
- EXHIBIT P8 TRUE COPY OF THE I.A. 2/2023 DATED 02.09.2023 FILED BY THE PETITIONER
- EXHIBIT P9 TRUE COPY OF THE OBJECTION FILED BY THE 1ST RESPONDENT IN I.A.2/2023 DATED 29.11.2023
- EXHIBIT P10 TRUE COPY OF THE JUDGMENT DATED 09.01.2024 IN OP(C) 2742/2023
- EXHIBIT P11 TRUE COPY OF THE ORDER IN I.A. NO. 2/2023 IN LAR 29/2023.