

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE VIJU ABRAHAM**

Thursday, the 25th day of April 2024 / 5th Vaisakha, 1946
WP(C).NO.13775 OF 2024(V)

PETITIONERS:

1. AYANA CHARITABLE TRUST (FORMERLY KNOWN AS GOSPEL FOR ASIA), AGED 67 YEARS MANJADI P.O., THIRUVALLA, PATHANAMTHITTA DISTRICT, KERALA STATE, REPRESENTED BY SMT. SINY PUNNOOSE, MANAGING TRUSTEE AND CHIEF FUNCTIONARY OF THE TRUST THROUGH HER POWER OF ATTORNEY HOLDER AND GENERAL ADMINISTRATOR OF THE TRUST, MR. JACOB POTHEN, S/O. LATE T.K. POTHEN, THERADIYIL HOUSE, NIRANAM WEST MURI, NIRANAM VILLAGE, THIRUVALLA TALUK. PATHANAMTHITTA DISTRICT, KERALA, PIN - 689103
2. DR. SINY PUNNOOSE, AGED 57 YEARS MANAGING TRUSTEE OF AYANA CHARITABLE TRUST, KADAPPILARIL HOUSE, KIZHAKKENMUTHOOR MURI, KUTTAPPUZHA P.O, THIRUVALLA TALUK, PATHANAMTHITTA DISTRICT REPRESENTED BY HER POWER OF ATTORNEY HOLDER MR. JACOB POTHEN, AGED 67, S/O. LATE T.K. POTHEN, THERADIYIL HOUSE, NIRANAM WEST MURI, NIRANAM VILLAGE, THIRUVALLA TALUK, PIN - 689103

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM. , PIN - 695001
2. DISTRICT COLLECTOR KOTTAYAM DISTRICT, COLLECTORATE, KOTTAYAM., PIN - 686001
3. CENTRE FOR MANAGEMENT DEVELOPMENT (CMD), REPRESENTED BY ITS MEMBER SECRETARY & DIRECTOR, CENTRE FOR MANAGEMENT DEVELOPMENT, THYCAUD, THIRUVANANTHAPURAM, PIN - 695001
4. THE DEPUTY COLLECTOR (LA) KOTTAYAM, ADMINISTRATOR, PROPOSED ACQUISITION OF SABARIMAL GREENFIELD AIRPORT, COLLECTORATE, KOTTAYAM, PIN - 686001
5. SPECIAL TAHSILDHAR LA (GENERAL), KOTTAYAM, COLLECTORATE, KOTTAYAM., PIN - 686001
6. BISHOP DR. SAMUEL MATHEW KAITHAPPATALIL HOUSE, 28 THIRUVALLA, PATHANAMTHITTA DISTRICT., PIN - 689101
7. BISHOP DR. JURIA BARDHAN HOUSE NO. IV/267 TMC, CHUMATRA MURI, KUTTAPPUZHA VILLAGE, THIRUVALLA TALUK, PATHANAMTHITTA DISTRICT. , PIN - 689103
8. BISHOP DR. SIMON JOHN CHITTAZHATH HOUSE, KUMBANAD, THIRUVALLA, PATHANAMTHITTA DISTRICT, PIN - 689103
9. REV. DR. DANIEL JOHNSON SUNBEAM, 11, NANTHANCODE PLAMMOODU, PATTOM, KAWDIAR VILLAGE, KAWDIAR TALUK, TRIVANDRUM, PIN - 695003
10. REV. FR. PRAISON JOHN PATTAPARAMBIL EBENEZER VILLA, PALACOTTAL ROAD, KUTTAPPUZHA P.O, THIRUVALLA, PATHANAMTHITTA DISTRICT, PIN - 689103

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to pass an order staying the operation and implementation of Exhibits P-33, P-34, P-37, P-40, P-41 and P-43 and all further proceedings

pursuant thereto, pending disposal of this Writ Petition (Civil).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.RISHIKESH HARIDAS & SHIJIMOL M.MATHEW, Advocates for the petitioners and of ADDITIONAL ADVOCATE GENERAL K.P JAYACHANDRAN for R1, R2, R4 and R5, and of S. CHANDRASEKHARAN NAIR for R3 the court passed the following:



VIJU ABRAHAM, J.

W.P.(C) Nos.13659 & 13775 of 2024

Dated this the 25th day of April, 2024

ORDER

W.P.(C)No.13775 of 2024 is filed challenging Exts.P33, P34, P37, P40, P41, and P43, whereas W.P.(C) No.13659 of 2024 is filed challenging Exts.P1, P2, P3 and P4.

2. I have heard the learned senior counsel appearing for the petitioners in W.P.(C)No.13775 of 2024 and the learned Advocate General on the interim relief.

3. The learned Senior Counsel appearing for the petitioners in W.P.(C) No.13775 of 2024 raised the following contentions:

The 1st petitioner is a religious charitable trust and the 2nd petitioner is its Managing Trustee. The 1st petitioner purchased a rubber estate popularly known as 'Cheruvally Estate' as per Ext.P1 sale deed executed on 01.08.2005. After the execution of the title deed, mutation was effected in favour of the 1st petitioner and land tax was also remitted as evident from Ext P2 and P3. The petitioners submit that when the said property was in the ownership of the predecessor-in-interest, M/s.

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Harrisons Malayalam Ltd., a ceiling return was filed under Section 85(a) of the Kerala Land Reforms Act, 1963 by its Manager before the Taluk Land Board, Vythiri. The Taluk Land Board after enquiry, passed an order dated 02.07.1982, and with regard to the estates in Kottayam District, it was found that out of 3681.06 acres, 3549.42 acres have already been exempted from surrendering and no land was liable to be surrendered under the provisions of the Kerala Land Reforms Act. As per the said report, the Land Board exempted the balance area of 131.64 acres also and the said order of the Land Tribunal has become final, since the same has not been challenged. The learned Senior Counsel appearing for the petitioners submitted that there were a series of litigations between the petitioners and the State in respect of the subject property. Since the Government could not succeed in those litigations, they took a decision as evident from Ext.P19 minutes, to initiate proceedings under the Kerala Land Conservancy Act, 1957 as a short-term measure and to appoint a Special Officer with wide and unbridled power to take over the properties. The Special Officer so appointed, by Exts.P22 and P23 orders declared the subject property as 'puramboke land' and issued Ext.P24 notice to the

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petitioners as per Rule 11 of the Kerala Land Conservancy Rules. The petitioners challenged Exts.P22 to P24 before this Court by filing W.P.(C) No.10640/2015, which was ultimately disposed of as per Ext.P26 judgment, whereby the proceedings under the Land Conservancy Act was set aside holding that the title cannot be adjudicated in the proceedings under the Kerala Land Conservancy Act, which is intended only for eviction of unauthorised occupation and the title could be established only by an adjudication before a Civil Court and granted the State liberty to approach the Civil Court to establish the title. Though Ext.P26 judgment was challenged before the Apex Court, the same also ended up in dismissal as per Ext.P27 order. Pursuant to the same, the Government of Kerala filed a suit as O. S. No. 72/2019 before the Sub Court, Pala, seeking a declaration of title and the said suit is still pending consideration. While so, Ext.P30 order was issued by the Government directing the 2nd respondent to acquire the entire 2263.18 acres of land of Cheruvally estate, subject to the condition that the Government shall deposit the entire compensation before the court having jurisdiction invoking Section 77(2) of the Right to Fair Compensation and Transparency in Land Acquisition,

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Rehabilitation and Resettlement Act, 2013 (in short, 'the Act, 2013). Aggrieved by Ext.P30, the petitioner Trust filed W.P.(C) No.13332/2020, which was disposed of as per Ext.P31 judgment holding that the petitioner has approached this Court at a premature stage and held that the question as to whether the Government can acquire the land over which it asserted right or interest, can be postponed to be decided to a stage when the Government initiates the land acquisition proceedings invoking the provisions of the Act, 2013, but set aside that portion of Ext. P30 order directing the District Collector to deposit the compensation amount before the authority referred under Section 77(2) of the Act, 2013. Thereafter by Ext.P33 order the Government accorded sanction to initiate proceedings under the Act, 2013 to acquire the property of the Cheruvally Estate. A perusal of Ext.P33 would reveal that though the initial proposal was only to acquire the land of the petitioners alone, the Government accorded sanction for acquisition of 2570 Acres of land in Erumeli South and Manimala of Kottayam District and an additional extent of 307 Acres outside the Cheruvally estate for construction and development of Sabarimala Greenfield Airport. Later, Ext.P34 notification under Section 4(1) of the Act, 2013

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was issued by the 1st respondent appointing the 3rd respondent, an organ of the Government, to conduct social impact assessment study. The petitioners submit that said notification was issued with malafides and with ulterior intention to grab 1st petitioner's property under the cover of the Act, 2013. The petitioners also submit that the Centre for Management Development - the 3rd respondent, which has been entrusted for conducting the social impact assessment study, is nothing but an agency of the Government and the entrustment of the social impact assessment study on the 3rd respondent is in clear violation of Rule 10(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Kerala) Rules, 2015 (in short ' the Kerala Rules, 2015'). By Ext.P36, the 1st petitioner submitted various objections regarding the adverse social and environmental impacts, but none of these objections were taken note of by the 3rd respondent agency. Alternative routes suggested were also not taken into consideration. The comparative study of feasibility and social impact was not assessed and the Government submitted Ext.P37 social impact assessment report, whereby the 1st respondent constituted an expert group as provided in

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Section 7 of the Act, 2013. It is contended by the petitioners that neither the expert group nor respondents 1 to 5 have considered various limbs of Section 4(4) and the adverse social and environmental impact and the absolute bare-minimum area required for acquisition, availability of alternate sites etc. They have also not taken into consideration the loss of source of drinking water, loss of source of water for cattle, loss of grazing land and plantations and the existence of place of worship, if the proposed acquisition takes place. Thereafter, the 1st respondent issued Ext.P41 order under Section 8(2) of the Act, 2013, according sanction to proceed with acquisition. Later, the Government issued Ext.P43 notification under Section 11(1) of the Act, 2013. The petitioners would contend that the purpose of the acquisition is mentioned incorrectly as "public purposes" whereas the same ought to have been "acquisition for public-private partnership projects" and the said stand taken in Ext.P43 is only to circumvent the statutory requirements of obtaining consent of 70% inhabitants mandated under Section 2(2)(b)(ii) of the Act, 2013. The petitioners submitted Ext.P44 objection before the 4th respondent.

4. The learned Senior Counsel summarised his arguments

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as follows:

- i) The 1st respondent is invoking the power of eminent domain to acquire land to which the 1st respondent itself claims title and has filed a suit as O. S. No.72/2019 before the Sub Court, Pala seeking declaration of title.
- ii) The appointment of the 3rd respondent - Centre for Management Development, Thiruvananthapuram under Section 4(1) of the Act, 2013 to conduct the Social assessment study is in blatant disregard and in violation of Rule 10(2) of the Kerala Rules, 2015.
- iii) The social impact assessment report suffers from serious infirmities as the 3rd respondent while conducting the study has failed to consider aspects like the absolute bare minimum extent required for the project, alternate feasible locations and social and environmental impact of the project which is in flagrant violations of the statutory requirement of Section 4(4) and also the mandates of Section 4(5) of the Act, 2013.
- iv) The objection raised by the petitioners during the

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social impact assessment study was ignored, disregarded and not dealt with in the final social impact assessment report by the 4th respondent.

- v) Notification published under Section 11(1) the Act, 2013 is not in accordance with the mandate of Section 11(1) of the Act, 2013 and Rule 18 of the Kerala Rules framed thereunder. Column No. 7 in Form 7 of the 2015 Kerala Rules requires that the name of "owners/interested persons" shall be shown in the Notification, however, the petitioner's name, who is the sole owner and the interested person is not mentioned.

5. The learned Senior Counsel appearing for the petitioners would submit that having failed in a series of litigation, the Government has come up with a new method to somehow grab the property in the ownership and possession of the petitioners by invoking the provisions of the Act 2013 by acquiring the property. It is further submitted that the malafides of the Government is so clear in the appointment of the 3rd respondent - Centre for Management Development, Thiruvananthapuram to conduct the social assessment study. By

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Ext.P34 Government Order, the 3rd respondent was authorised to conduct the social impact assessment study and a perusal of the explanatory note of the said Government Order would reveal that the notification was issued invoking the power under 10 of the Kerala Rules, 2015. Section 2 (f) of the Kerala Rules, 2015 defines social impact assessment unit as a unit accredited by the Government to conduct the social impact assessment study about any proposed acquisition. Rule 10 of the Kerala Rules, 2015 deals with notifying the social impact assessment unit for conducting a social impact assessment study. Rule 10 reads as follows:

10. Notifying a Social Impact Assessment Unit for conducting Social Impact Assessment study. - (1) As soon as may be, but at any rate within two weeks from the date of receipt by the Government of a proposal for acquisition forwarded by the Collector complete in all respects, the Government shall identify and entrust an appropriate Social Impact Assessment unit from the panel maintained by it, to conduct the Social Impact Assessment study in respect of the acquisition.

(2) No Social Impact Assessment unit which has any ties, connections, business relations with the Requiring Body or has any other conflict of interest should be entrusted with the Social Impact Assessment study for any acquisition.

(3) The Social Impact Assessment unit shall submit to

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the Government along with the cost of the Social Impact Assessment study a certificate to the effect that it has no ties, connections, business relations or conflict of interest with the Requiring Body in conducting the Social Impact Assessment study.

(underline supplied)

As per Rule 10(2), no social impact assessment unit which has any ties, connections, or business relations with the requiring body or has any other conflict of interest should be entrusted with the Social Impact Assessment study for any acquisition. Based on Rule 10(2) the petitioners would contend that the appointment of the 3rd respondent - the Centre for Management Development as a unit of conducting social impact assessment study, is in direct conflict with Rule 10(2) of the Kerala Rules, 2015, inasmuch as the 3rd respondent is having ties, connection, business relation with the requiring body, the State. Going by Ext.P35, the 3rd respondent is a research-driven management consulting and training institution under the Government of Kerala, and the 3rd respondent was constituted as per a Government Order GO(Ms) No. 294/78/ID dated 31.07.1978 and is a society attached with the Industries Department, Government of Kerala which is managed by a Governing Board comprising of a Chairman, three senior Secretaries to

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Government of Kerala, four Chief Executives of public enterprises, two academicians in the field of management, two industrialists and two representatives of professional bodies. A perusal of Ext.P35 reveals that the Governing Board of the 3rd respondent consists of the Chairman who is the former Chief Secretary of the Government of Kerala, the Vice Chairman being the Managing Director of the Travancore Cochin Chemicals Limited - a public sector undertaking, the Principal Secretary to the Department of Industries & Commerce, Additional Chief Secretary - Planning & Economic Affairs Department, Additional Chief Secretary - Local Self Government Department as members and the Additional Chief Secretary - Revenue Department as permanent invitee and also the Managing Director of KSIDC as a member. The learned Senior Counsel appearing for the petitioners would further submit that the present acquisition proceedings is malafide inasmuch the attempt of the Government is to somehow or other take over the land of the petitioners, and the appointment of the 3rd respondent to conduct social impact assessment study which is an agency deeply connected with the Government, attached to the Industries Department, Government of Kerala, which has the

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Government Secretaries as governing board members including the Revenue Secretary, who granted Ext.P33 permission for acquisition of land for the purpose of construction of Sabarimala Greenfield Airport. It is also contended that the entrustment of the 3rd respondent to conduct social impact assessment is clearly in violation of Section 10(2) of the Kerala Rules, 2015, which specifically mandates that no Social Impact Assessment unit should have any ties, connections, business relations with the Requiring Body or has any other conflict of interest. The learned Senior Counsel would further submit that none of the objections raised by the 1st petitioner was either considered nor reflected in the final social impact assessment report.

6. Yet another contention raised by the learned Senior Counsel appearing for the petitioners is that Ext.P43 notification published under Section 11(1) of the Act, 2013 is not in accordance with the mandates of the said Section and Rule 18 of the Kerala Rules, 2015. Rule 18 of the Kerala Rules, 2015 provides that the publication of preliminary notification shall be in Form No.7 of the Kerala Rules, 2015, which requires the name of the owner/person interested to be shown in the notification. A perusal of Ext.P43 notification would show that in

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the column provided to show the details of the owner/Thandaper party, only thing that is mentioned is that there is a dispute regarding the ownership of land, which is pending before the Sub Court Pala, as O.S. No. 72/2019, filed by the Government seeking declaration of ownership of the said property against the 1st petitioner. The learned Senior Counsel would submit that the name of the 1st petitioner not being shown as owner, will seriously affect the right of the petitioners inasmuch as none of the objections whatsoever raised by the petitioners will not be considered and further that when the Government is proceeding to acquire the land invoking the provisions of the Act, 2013 they are bound to follow the definition of the 'land owner' as defined in the Act in Section 3(r), which reads as follows:

3(r) "land owner" includes any person,-
(1) whose name is recorded as the owner of the land or building or part thereof, in the records of the authority concerned; or
(ii) any person who is granted forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or under any other law for the time being in force; or
(iii) who is entitled to be granted Patta rights on the land under any law of the State including assigned lands; or

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*iv) any person who has been declared as such by
an order of the court or Authority;
(underline supplied)*

Going by the said definition, 'land owner' is a person whose name is recorded as the owner of the land or building or part thereof, in the records of the authority concerned. The petitioners submit that they have been paying tax in respect of the said property as evident from Exts.P38 and P39 tax receipts, wherein the name of the pattadar is shown as 'Gospel For Asia', which is later renamed as Ayana Charitable Trust, the 1st petitioner herein and in the revenue records 'Gospel For Asia' is recorded as the owner of the land.

7. Similar contentions were raised in W.P.(C) No.13659 of 2024 also.

8. The learned Advocate General appearing for the State would submit that the above writ petitions are premature inasmuch as the petitioners have an effective remedy under Section 15 of the Act 2013 to submit their objections to the preliminary notification, Ext.P43 under Section 11(1) of the Act, 2013 and the petitioners have already preferred the same as per Ext.P44 and that the objections submitted by the petitioners will be duly considered. As regards the contention raised by the

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petitioners based on Rule 10(2) of the Kerala Rules, 2015, the learned Advocate General made submissions on the strength of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 (in short 'Central Rules, 2014'). He would contend that Rule 3 speaks about social impact assessment study, which shall be carried out by the social impact assessment unit and going by Rule 6 it is the duty of the social impact assessment unit to select a social impact assessment team for each project and as per Rule 6(6), while selecting the social impact assessment team, it should be ensured that there is no conflict of interest involving the team members appointed to assess the concerned project. Based on this, the contention of the learned Advocate General is that there is no rider that the social impact assessment unit should not have any tie or relationship with the Government or the requisitioning authority and it is only the team members of the social impact assessment team, who should not have any conflict of interest with respect to the concerned project. The learned Advocate General also brought to the notice of this Court the decision of the Government as per communication No.REV-

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B3/272/2023-REV dated 11.04.2024, and submitted that though the time fixed as per Section 11(1) notification to file objections is only 15 days as mandated as per the Kerala Rules, 2015, the Government has decided to grant time of 60 days for submitting the objections in consonance with the provisions of the Act, 2013 and a notification in this regard will be issued and only after granting 60 days' time to file the objections, further proceedings in this matter will be initiated. Learned Advocate General relied on the judgment in W.P(C) No. 41873 of 2023 and the R.P order in R.P No. 41 of 2024 in the said writ petition, W.P(C) No. 11612 of 2023, ***State of Kerala v. Sunil. J. Arackalan, 2022 SCC OnLine Kerala 5091*** and order in S.L.P Nos. 5179-5180 of 2022 in support of his contentions.

9. As regards the contention of the learned Advocate General that the writ petition is highly premature, and going by Section 15, the petitioners have every right to file their objections, the learned Senior Counsel appearing for the petitioners would submit that the petitioners have approached this Court earlier when Government issued Ext.P30 order and this Court reserved the right of the petitioners to approach this Court at a stage when the Government initiate land acquisition

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proceedings invoking the Act, 2013, and the writ petition was thus disposed of. The learned Senior Counsel further submits that Section 11(1) notification has already been issued and now it is at the stage of Section 15, calling for objections to the preliminary notification under Section 11(1). Relying on a Full Bench decision of the Bombay High Court in **Sandeep S. Metange and others v. State of Maharashtra and others, 2022 (1) Mh.L.J 146**, the learned Senior Counsel for the petitioners submits that the issuance of notification under Section 4, the notification for the preparation of the social impact assessment study, shall be treated as initiation of the acquisition proceedings. Paragraphs 44, 45, 47 and 48 of the said judgment reads as follows:

44. Undeniably, after dealing objections in terms of section 5-A, definite action would be taken in terms of publication under section 6(1) of the Old Act. In other words, preliminary investigation would culminate into a firm declaration of a Government on issuance of section 6 notification. The initial proposal under section 4 would turn into definite proceedings for acquisition by way of section 6 notification. We can gather from the entire scheme that the first step would be in the form of preliminary notification under section 4 of the Act. There could be no dispute that notification under section 4 is sine qua non in the acquisition

proceedings meaning thereby a mandatory step to be taken sans the entire proceedings would vitiate.

45. The purpose of preliminary notification may be of primary nature for assessing the suitability, however, it is a mandatory step towards acquisition process. Therefore, though we find reference in various decisions about preliminary nature of section 4 notification, however, it is undeniable that it is a mandatory requirement. The mandatory nature of preliminary notification itself conveys its importance in the process. Though the purpose of notification under section 4, is limited to the extent of starting the process, however, unless, the said mandatory step is followed, there could be no definite declaration under section 6 of the Old Act. One cannot skip the first step of issuance of notification under section 4 out of the process, as converse it would vitiate the whole. Had it been the fact that section 4 notification was optional, in that case one could say that the same cannot be termed as initial step, because, it can be overlooked. In that view, an opinion cannot be formed that section 4 notification is not a commencement, because it is in the preliminary form. We find it difficult to agree with the submission that merely because of section 4 notification of preliminary nature, it does not amounts to commencement or initiation of the land acquisition proceedings.

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47. The brief resume of these provisions conveys that sections 4 and 6 are the basis of the acquisition proceedings without which there could be no acquisition. While emphasizing the importance of

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section 4 notification, the Supreme Court in above referred case of State of M. P. and ors. vs. Vishnu Sharma and ors. expressed the importance of notification under section 4 that, on the issue of notification the land in the locality to which the notification applies, is in a sense freezed. This freezing takes place in two sense. Firstly, the market value of the land at the date of the publication of the notification under section 4 has to be considered in terms of section 23 of the Old Act and Secondly, any outlay or improvement on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4, cannot be taken into consideration for determining the compensation in terms of section 24 of the Old Act. Thus, the effect of section 4 notification makes marked difference in assessing the compensation. The date of publication of notification under section 4(1) is decisive in the sense that the then market value of the land would be an indicator for determining the compensation. Likewise, after publication of notification, even if any improvements are made, they are to be ignored while assessing the compensation.

48. The relevant provisions of section 23(1) and section 24 makes clear that the legislature has given importance to the stage of preliminary notification under section 4(1) as it would be a decisive factor in determining the compensation. From said angle, in one sense, section 4 notification amounts to initiation because, it has certain repercussions in computing compensation as stated above. The Act has not given

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any importance to the definite notification under section 6, in context of determining the quantum of compensation. In other words, the step towards notification under section 6, is held to be interregnum step of the acquisition, and therefore also it cannot be termed as initiation of proceedings.

The learned Senior Counsel also relies on the judgment of the Apex Court in ***Haryana State Industrial and Infrastructure Development Corporation Limited and others v. Deepak Aggarwal and Others [(2023) 6 SCC 512]***, and the Apex Court while dealing with Section 24 of the Act 2013, held that the proceedings under the Act shall be treated as initiated on publication of a notification under sub-section (1) of Section 4 of the Act 2013. Paragraphs 33, 35 and 47 of the above said judgment reads as follows:

33. *The words "initiate" or "initiated" are not defined under the LA Act and also under the 2013 Act. Hence, to ascribe its meaning the dictionary meaning of the word has to be looked into. In Webster's Third New International Dictionary, the word "initiate" has inter alia been defined thus:*

"to begin or set going: make a beginning of: perform or facilitate the first actions, steps, or stages of:" In Shorter Oxford English Dictionary the word "initiate" is defined as: "to begin, commence, enter upon, to introduce, set going, originate."

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35. We think it only befitting to supplement further reasons for supporting our conclusion as above. A perusal of Section 4 of the LA Act would reveal that a preliminary notification under Section 4(1) is issued whenever it appears to the appropriate Government that land in any locality is needed or likely to be needed for any public purpose. The said formal expression of the decision takes concrete shape and forms only on its publication in the Official Gazette. It is only upon issuance and publication of a notification under Section 4(1) that any officer, either generally or specially authorised by the appropriate Government and his servants and workmen could lawfully enter upon and survey and take levels of any land in such locality in terms of sub-section (2) thereof.

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47. To conclude, we hold that for the purposes of sub-section (1) of Section 24 of the 2013 Act, the proceedings under the LA Act shall be treated as initiated on publication of a notification under sub-section (1) of Section 4 of the LA Act. We further hold that when clause (a) of sub-section (1) of Section 24 of the 2013 Act is applicable, the proceedings shall continue as per the LA Act. However, only for the determination of compensation amount, the provisions of the 2013 Act shall be applied.

10. Yet another contention raised by the learned Advocate General is that the acquisition proceedings is at the Section 11(1) stage and that the petitioners have every right to file their

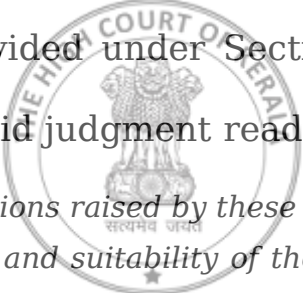
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objections and for a hearing on 11(1) notification, as provided under Section 15 of the Act, 2013. Section 15 deals with hearing of objections which mandates that any person interested in any land which has been notified under sub-section(1) of section 11, as being required or likely to be required for a public purpose, may within sixty days from the date of the publication of the preliminary notification, object to about —(a) the area and suitability of land proposed to be acquired; (b) justification offered for public purpose; (c) the findings of the Social Impact Assessment report. The learned Senior Counsel appearing for the petitioners would contend that the scope of interference or the scope of filing objections as per Section 15 is limited to three areas mentioned above whereas, the contention raised by the petitioners is a challenge against the entrustment of the 3rd respondent for conducting the social impact assessment study as it goes against Rule 10(2) of the Kerala Rules, 2015 and that the said aspect is not a matter which will come within the purview of Section 15 of the Act, 2013. Therefore, it is contended that even if the petitioners approach the authority under Section 15 and they are heard, the grievance raised against the illegal entrustment of the 3rd respondent for conducting a social impact

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assessment study cannot be considered and decided in the hearing under Section 15 of the Act 2013. The learned Senior Counsel relying on the judgment in **Peravali Premakumari v. State of Andhra Pradesh [2022 SCC Online AP1034]** would contend that the Court in the said case has held that since objections raised by the petitioners therein was not in regard to the matters as prescribed under Section 15, the petitioners therein cannot be permitted to raise such contention in the objection filed as provided under Section 15 of the Act, 2013.

Paragraph 21 of the said judgment read as follows:



“21. The objections raised by these petitioners is not with regard to area and suitability of the land proposed to be acquired or justification offered for public purpose or the findings of the Social Impact Assessment Report, as enumerated in Clauses (a) to (c) of Sub-section (1) of Section 15 of Act No. 30 of 2013. But, their objection is about their poverty and social backwardness. The objections raised by the petitioners are not permitted under Sub-section (1) of Section 15 of Act No. 30 of 2013. As the objections are beyond the permissible objections under Sub-section (1) of Section 15 of Act No. 30 of 2013, those objections needs no further hearing and no specific findings need be recorded. In fact, the main reason for filing this writ petition is that, an opportunity of personal hearing was not afforded to the petitioners and it is in violation of principles of natural justice.”

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11. In view of the above facts and circumstances, I am of the view that as the petitioners have been permitted by this Court as per Ext.P31 judgment to approach this Court when land acquisition proceedings are initiated, and as the proceedings are at Section 11(1) notification, and at the stage of considering objections as provided under Section 15 and also taking into consideration the contentions of the petitioners on the ground of violation of Rule 10 of the Kerala Rules 2015 and Section 3(r) and Section 11(1) of the Act 2013 and also considering the contention of the petitioners that the objections raised by them regarding violation of Rule 10 of the Kerala Rules 2015 cannot be considered in the proceedings under Section 15 of the Act 2013, these writ petitions are liable to be admitted.

12. In view of the above facts and circumstances, W.P.(C) No.13775 of 2024 is also admitted. The learned Government Pleader takes notice for respondents 1, 2, 4 and 5. Issue notice to respondents 3 and 6 to 10 by speed post. Respective respondents shall file their counter affidavit.

Pending consideration of the writ petitions, there will be an interim order directing the official respondents not to take any

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further steps pursuant to Ext.P43 notification, issued under Section 11(1) produced in W.P.(C) No.13775 of 2024, for a period of 2 months. It is also ordered that the petitioners and respondents in both the writ petitions shall maintain the status quo in respect of the property, which is the subject matter of Ext.P43 notification.

Sd/-

**VIJU ABRAHAM
JUDGE**



sm/

APPENDIX OF WP(C) 13775/2024

- EXHIBIT P1** TRUE COPY OF THE SALE DEED NO: 2329/2005 DATED 01.08.2005
- Exhibit P2** TRUE COPY OF THE LAND TAX RECEIPT DATED 13.08.2007 OF ERUMELI VILLAGE
- Exhibit P3** TRUE COPY OF THE LAND TAX RECEIPT DATED 13.08.2007 OF MANIMALA VILLAGE
- Exhibit P19** TRUE COPY OF THE MINUTES OF THE MEETING CONVENED BY THE HON'BLE MINISTER OF REVENUE DATED 06.03.2013
- Exhibit P22** TRUE COPY OF THE NOTICE NO. GLR (LR)14/2013 DATED 16.03.2015 ISSUED BY THE SPECIAL OFFICER AND COLLECTOR
- Exhibit P23** TRUE COPY OF THE ORDER NO. GLR-(LR)-90/2014 OF THE SPECIAL OFFICER AND COLLECTOR DATED 28.05.2015
- Exhibit P24** TRUE COPY OF THE NOTICE NO. GLR-(LR)-90/2014 ISSUED BY THE SPECIAL OFFICER AND COLLECTOR UNDER RULE 11 OF THE KERALA LAND CONSERVANCY RULE DATED 28.05.2015
- Exhibit P25** TRUE COPY OF THE REPLY OF THE LEARNED LAW SECRETARY DATED 04.04.2017 NO.21443/LEG.B2/2016/LAW. OBTAINED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT
- Exhibit P26** TRUE COPY OF THE COMMON JUDGMENT OF THIS HON'BLE COURT IN W.P©.NO. 33122/2014 AND CONNECTED CASES DATED 11.4.2018 OF THIS HONORABLE COURT
- Exhibit P27** TRUE COPY OF THE JUDGMENT OF THE HON'BLE APEX COURT IN SPECIAL LEAVE PETITION SLP NO. 24028-24035/2018 DATED 17.09.2018
- Exhibit P30** TRUE COPY OF THE GOVERNMENT ORDER G.O (M.S) NO.158/2020/RD DATED 18.06.2020 ISSUED BY THE PRINCIPAL SECRETARY
- Exhibit P31** TRUE COPY OF THE JUDGMENT IN WP(C) NO. 13332/2020 OF THIS HON'BLE COURT DATED 16.10.2020
- Exhibit P33** TRUE COPY OF THE NOTIFICATION NO.G.O.(MS.)NO.312/2022/RD DATED 30.12.2022
- Exhibit P34** TRUE COPY OF THE NOTIFICATION NO. S.R.O. 123/23 DATED 23.01.2023
- EXHIBIT P35** TRUE COPY OF THE ORGANIZATION PROSPECTUS AND LIST OF MEMBERS IN GOVERNING BODY OF 3RD RESPONDENT AS DOWNLOADED FROM THE OFFICIAL WEBSITE OF 3RD RESPONDENT DATED NIL
- Exhibit P36** TRUE COPY OF THE OBJECTION / REPRESENTATION DATED 09.06.2023 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 2ND AND 3RD RESPONDENTS
- Exhibit P37** TRUE COPY OF THE SOCIAL IMPACT ASSESSMENT OF LAND ACQUISITION FOR THE CONSTRUCTION OF SABARIMALA GREENFIELD AIRPORT REPORT DATED JUNE, 2023
- Exhibit P38** TRUE COPY OF THE LAND TAX RECEIPT NO.21/2860 DATED 28.11.2023 ISSUED BY THE ERUMELY SOUTH VILLAGE OFFICE
- Exhibit P39** TRUE COPY OF THE LAND TAX RECEIPT NO.22/3676 DATED 28.11.2023 ISSUED BY THE ERUMELY SOUTH VILLAGE OFFICE
- Exhibit P40** TRUE COPY OF THE RELEVANT PAGES OF EXPERT GROUP APPRAISAL REPORT U/S 7 OF THE LARR ACT, 2013 DATED NIL
- Exhibit P41** TRUE COPY OF THE GOVERNMENT ORDER NO. G.O.(MS) NO. 283/2023 RD DATED 20.12.2023

Exhibit P43

TRUE COPY OF THE NOTIFICATION NO.S.R.O. 278/2024 UNDER SECTION 11(1) IF LARR ACT 2013 DATED 13.03.2024

Exhibit P44

TRUE COPY OF THE OBJECTION SUBMITTED BY THE 1ST PETITIONER TO THE 4TH RESPONDENT TO EXT. P-44 NOTIFICATION DATED 26.03.2024

