



WA NO.544 OF 2010 &
OP(C) NO. 1802 OF 2011

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2025:KER:62727

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

THURSDAY, THE 21ST DAY OF AUGUST 2025 / 30TH SRAVANA, 1947

WA NO. 544 OF 2010

AGAINST THE JUDGMENT DATED 15.03.2010 IN WPC NO.24031

OF 2008 OF HIGH COURT OF KERALA

APPELLANTS/PETITIONERS:

- 1 SULAIMAN M.S.
S/O.MOHAMMAD SALI
AGED 62, BIJU NIVAS,
KAIPANCHERI ROAD,
IRUMPANAM (DIED)
- 2 ABIDA BEEGOM
W/O.SHAHUL HAMEED
154, JAVAHAR NAGAR,
KADAVANTHRA,
KOCHI-20.
- 3 ANNIE EAPEN
W/O.V.G.EAPEN
279, GIRI NAGAR,
KOCHI-20.
- 4 KUNJAITHY KOCHUPAUL
W/O.KOCHUPAUL
141, GIRINAGAR,
KADAVANTHARA,
KOCHI-20.



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*5 KHAIRNIZA
W/O.LATE M.S.SULAIMAN,
BIJU NIVAS,
KAIPENCHERRY ROAD,
IRIMPANAM P.O., ERNAKULAM-682309

*6 BIJU SULAIMAN
S/O.LATE M.S.SULAIMAN,
BIJU NIVAS,
KAIPENCHERRY ROAD,
IRIMPANAM P.O.,
ERNAKULAM-682309

*7 BINOY SULAIMAN
S/O.LATE M.S.SULAIMAN,
BIJU NIVAS,
KAIPENCHERRY ROAD,
IRIMPANAM P.O.,
ERNAKULAM,
PIN-682309.

(ADDITIONAL APPELLANTS A5, A6 AND A7 ARE IMPEADED
AS PER ORDER DATED 05.10.2010 IN IA 638/2010.)

BY ADV SHRI.MADHU RADHAKRISHNAN

RESPONDENTS/RESPONDENTS :

- 1 THE STATE OF KERALA
REPRESENTED BY ITS CHIEF
SECRETARY TO GOVERNMENT,
THIRUVANANTHAPURAM.
- 2 THE DISTRICT COLLECTOR
ERNAKULAM.
- 3 THE SPECIAL TAHSILDAR (LA)
GENERAL,
ERNAKULAM.
- 4 LAND REVENUE COMMISSION
THIRUVANANTHAPURAM.



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- 5 THE EXECUTIVE ENGINEER
PWD ROADS DIVISION,
ERNAKULAM.
- 6 N.RAMACHANDRAN,
MANAGER,
SREE VENKATESWARA ENGLISH
MEDIUM HIGH SCHOOL,
TRIPUNITHURA.

BY ADVS.
SRI.KURIAN GEORGE KANNANTHANAM (SR.)
SHRI.N.ANILKUMAR
SRI.S.RANJITH, SR.GOVERNMENT PLEADER
SHRI.K.P.JAYACHANDRAN, ADDL. ADVOCATE GENERAL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
07.08.2025, ALONG WITH OP(C)NO.1802/2011, THE COURT ON
21.08.2025 DELIVERED THE FOLLOWING:



WA NO.544 OF 2010 &
OP(C) NO. 1802 OF 2011

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

THURSDAY, THE 21ST DAY OF AUGUST 2025 / 30TH SRAVANA, 1947

OP(C) NO. 1802 OF 2011

AGAINST THE ORDER DATED 01.01.2011 IN LAR NO.14 OF 2010
OF ASSISTANT SESSIONS COURT/III ADDITIONAL SUB COURT,
ERNAKULAM

PETITIONERS :

- 1 ABIDA BEEGAM
W/O.SHAHUL HAMEED
154, JAWAHAR NAGAR,
KADAVANTHRA,
KOCHI-20.
- 2 MRS.KUNJATHY KOCHU PAUL
W/O.KOCHU PAUL,
141, GIRINAGAR,
KADAVANTHRA,
KOCHI-20.
- 3 ANNIE EAPEN
W/O.V.G.EAPEN
279, GIRINAGAR,
KOCHI-20.
- 4 KHAIRNIZA
W/O.LATE SULAIMAN
BIJU NIVAS,
KAIPANCHERY ROAD,



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IRUMPANAM,
ERNAKULAM.

5 BIJU SULAIMAN
S/O.LATE SULAIMAN
BIJU NIVAS,
KAIPANCHERY ROAD,
IRUMPANAM,
ERNAKULAM.

6 BINOY SULAIMAN
S/O.LATE SULAIMAN
BIJU NIVAS,
KAIPANCHERY ROAD,
IRUMPANAM,
ERNAKULAM.

BY ADV SHRI.MADHU RADHAKRISHNAN

RESPONDENT :

THE SPECIAL TAHASILDAR (LA)
GENERAL,
ERNAKULAM,
KOCHI-30.

SRI.S.RANJITH, SR.GOVERNMENT PLEADER

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON
07.08.2025, ALONG WITH WA.544/2010, THE COURT ON 21.08.2025
DELIVERED THE FOLLOWING:



"C.R."

J U D G M E N T

Dated this the 21st day of August, 2025

A.Muhamed Mustaque, J.

This is a peculiar case where the State has adopted an ingenious method to acquire the land owned by the appellants by invoking the Land Acquisition Act, 1894 (hereinafter referred to as " the 1894 Act").

2. The State projected a need to widen the access to the bridge by acquiring the land belonging to a school claimed to be run by a linguistic minority. The institution in question is Sree Venkateswara English Medium School, Thripunithura, managed by Thulu Brahmana Yogam, a linguistic minority community in Kerala. The notification issued by the State, dated 09.06.2006, was challenged before this Court by the school authority in W.P.(C). No. 18503 of 2006. The challenge primarily centred on Article 30(1A) of the Constitution of India.



3. Clause 1(A) of Article 30 of the Constitution of India reads as follows:

"30(1A). In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause."

This clause was inserted by the Constitution (Forty-fourth Amendment) Act, 1978, with effect from 20.06.1979.

4. In **Society of St. Joseph's College v. Union of India [(2002) 1 SCC 273]**, the Hon'ble Apex Court held that Article 30(1A) of the Constitution of India mandates that a specific law is required to provide for the compulsory acquisition of property belonging to minority educational institutions, and without making a specific law, the State cannot acquire the property of such institutions.

5. Faced with such a situation, and in the absence of



any specific law enabling the acquisition of property belonging to a minority educational institution, it would not have been possible for the State to acquire the land of Sree Venkateswara English Medium School, Thripunithura. Consequently, in the writ petition, a compromise was arrived at between the school authority and the State. Pursuant to an understanding, a statement was filed before this Court. As per the terms of the compromise, in lieu of land from the school authority, they will be compensated by handing over the land belonging to the adjacent owners through the acquisition. The adjacent owners are the appellants herein. Acting on the compromise, this Court disposed of the writ petition filed by the school authority, recording the terms of the compromise. It appears that the bridge was widened and constructed by using the land of the school, and in order to compensate for the land so acquired, a notification dated 19.05.2007 was issued to acquire the land belonging to the appellants herein, who are the writ petitioners in W.P.(C).No.



24031/2008.

6. In this writ petition, the very claim of minority status by the school authority was questioned, and the appellants contended that the acquisition was a colourable exercise of power. The learned Single Judge, who heard the matter, dismissed the challenge. On dismissal, an award bearing no. 1/10 was passed on 22.03.2010. In the reference under Section 18 of the 1894 Act, the appellants did not participate, and the Reference Court answered the reference, holding that the appellants were not entitled to enhanced compensation. This issue was separately raised in O.P.(C). No. 1802/2011 before this Court. Accordingly, both the appeal and the original petition challenging the award have been tagged together for hearing. We, therefore, deem it appropriate to dispose of both matters by this common judgment.

7. The public purpose is defined under section 3(f) of the Land Acquisition Act, 1894. It reads as follows:



"3(f). the expression "public purpose" includes-

(i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;

(ii) the provision of land for town or rural planning;

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;

(iv) the provision of land for a corporation owned or controlled by the State;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the



time being in force in a state, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government or with the prior approval of the appropriate Government, by a local authority;

(viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for companies;”

8. It is specifically referred to in Clause vi of Section 3(f) of the 1894 Act that land can be acquired for educational purposes by schemes carried out or established by the Government. Therefore, the scope of land acquisition for educational institutions is limited. Further, Clause viii of Section 3(f) of the 1894 Act states that the acquisition of land for companies does not fall within the definition of “public purpose”. Part VII of the 1894 Act, deals with the acquisition of land for companies, and such acquisition is permissible only for the limited purposes enumerated in Section 40(1) of the 1894 Act. Therefore, it is evident that of the 1894 Act, intended to give a limited meaning to the



public purposes. No doubt, sometimes public purpose may not necessarily be confined to the needs of the State. However, in such cases, the plurality of interests of the larger public must be reflected in the object of the acquisition.

9. A learned Single Judge of this Court, in **Gopakumar V.M. v. State of Kerala [2009 (3) KHC 361]**, opined that the need to provide more space for a temple and also parking space in relation thereto would fall within the ambit of public purpose.

10. We cannot, however, gloss over the facts and circumstances of this case while determining whether the acquisition was for a public purpose or not. The entire hurdle for the State was its failure to address the mandate under Article 30(1A) of the Constitution. In order to overcome this constitutional restriction, a compromise was entered into with the school on the promise that the land of adjacent holders would be acquired to compensate for the loss suffered by the



school. This is a private arrangement and a private contract. Such an agreement cannot have any backing of law, and to elevate the status of a contract entered into by the State in exercise of its executive or sovereign power. It rather reflects a deceitful means adopted by the State to get over the constitutional embargo. When the matter is examined from that backdrop, the acquisition of land is, in fact, based on the promise arrived at in a settlement rather than upholding any public purpose related to the school. The school can still function, and it will not affect the functioning of the school even after the acquisition of land from the school authority. No doubt, the acquired land may be required by the school as a playground or for any other purpose. Be that as it may, since it is a private school, there is no public purpose element in light of the restricted meaning assigned to public purpose under the Land Acquisition Act. Even for a company, the public purpose has been defined in a more restricted way. In the Right to Fair Compensation and Transparency in Land



Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the 2013 Act"), the applicability of the Act has been excluded even for private educational institutions and private hotels. Anyway, we are certain that this acquisition is a dubious attempt to wriggle out the constitutional embargo rather than acknowledging any other elements constituting public purpose under the law.

11. Thus, we hold that the entire land acquisition proceedings have to be set aside, including the notification under Section 4(1) of the 1894 Act. However, the learned counsel for the appellants fairly admitted that the possession of the land has already been taken over, and now it is with the school authority. The learned counsel for the appellants conceded that the appellants only require compensation calculated in accordance with the 2013 Act, and on payment of compensation, they shall execute the necessary documents in favour of any person or authority nominated by the Government.



12. In the peculiar circumstances, we direct the Collector to calculate the compensation in accordance with the 2013 Act and on payment or deposit of the amount, the appellants shall execute a conveyance deed, on meeting the entire expenses by the State, in favour of the Government or its nominee.

Accordingly, the Writ Appeal stands allowed. In the above circumstances, the impugned award in O.P.(C)No. 1802 of 2011 is set aside.

Sd/-

**A.MUHAMED MUSTAQUE
JUDGE**

Sd/-

**HARISANKAR V. MENON
JUDGE**



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OP(C) NO. 1802 OF 2011

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APPENDIX OF OP(C) 1802/2011

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ORDER DATED 01.01.2011 IN L.A.R. 14/2010
Exhibit P2	TRUE COPY OF THE STAY PETITION FILED BEFORE THE DIVISION BENCH OF THIS HON'BLE COURT
Exhibit P3	TRUE COP OF THE ADJOURNMENT APPLICATION FILED BEFORE THE COURT BELOW
Exhibit P4	TRUE COPY OF THE INTERIM ORDER PASSED BY THE DIVISION BENCH OF THIS HON'BLE COURT