



**GOVERNMENT OF KERALA**

**Abstract**

Revenue Department - Acquisition of 5.47 Ares of land in Re Sy No 7/33-1, 7/44-1 of Puliyanoor Village in possession of Shri Sajan PM for the construction of parallel road from R V Junction to Puliyanoor in Pala, Kottayam - Review Petition u/s 36 of LARR Act, 2013 - Re-determination of land value - Enquiry team constituted - Orders Issued

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**REVENUE (B) DEPARTMENT**

G.O.(Rt)No.2351/2022/RD Dated, Thiruvananthapuram, 26-05-2022

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- Read 1 Judgment dated 02.02.2018 in WP(c) 12962/2017 filed by Shri Sajan P M
- 2 Judgment dated 22.05.18 in WA 425/18 against the judgment dated 02.02.2018 in WP(c) 12962/20 17
- 3 Judgment dated 29.05.19 in WP(c) 7023/19 filed by Shri PM Sajan
- 4 Proceedings No G1-5974/12 dated 01.10.19 of the District Collector, Kottayam
- 5 Letter No G1-5974/12 dated 05.10.19 from the District Collector, Kottayam
- 6 Letter No G1-5974/12 dated 28.02.2021 from the District Collector, Kottayam
- 7 Letter No LRC3-13050/2021 dated 27.04.2021 from the Commissioner, Land Revenue
- 8 D.O No 40/2021/PrlSecy(Rev) dated 26.04.2021
- 9 Proceedings No G1-5974/12 dated 26.11.2021 of the District Collector, Kottayam
- 10 Review Petition dated 14.12.2021 filed by Shri Sajan P M
- 11 Govt. Letter of even No dated 18.02.2022
- 12 Letter No G1-5974/12 dated 19.05.2022 from the District Collector, Kottayam

**ORDER**

WP(c) 12962/2017 has been filed by Shri Sajan P M dissatisfied with the Awards passed in LAC 67/2015 & LAC 68/2015 with regard to the acquisition of 5.47 Ares of

land in Re Sy No 7/33-1, 7/44-1 of Puliyanoor Village for the construction of parallel road from R V Junction to Puliyanoor in Pala, Kottayam. The Hon'ble High Court in the judgment dated 02.02.2018 in WP(c) 12962/2017 referred 1st above has disposed of the writ petition stating that awards passed by the 6th respondent (Special Tahsildar, LA (General), Pala, Kottayam) are in accordance with the powers conferred under Sec.3(g) of Act, 2013, and therefore, no manner of interference is required on the ground, 6th respondent is not legally empowered to pass the awards in question.

2. WA 425/18 has been filed by Shri Sajan P M against the judgment dated 02.02.2018 in WP(c) 12962/2017 and the Hon'ble High Court in the judgment dated 22.05.18 in WA 425/18 referred 2nd above directed the 6th respondent (Special Tahsildar, LA (General), Pala, Kottayam) to hear the petitioner afresh upon serving on him a notice under Section 26 of the New Act and determine the compensation denovo, applying the principles for determination of compensation as contained in the New Act. WP(c) 7023/19 has been filed by Shri Sajan P M and the Hon'ble High Court in the judgment dated 29.05.19 in WP(c) 7023/19 referred 3rd above has ordered that the petitioner has efficacious remedy under section 64 to seek reference and dismissed the case.

3. The District Collector, Kottayam in the letter dated 05.10.2019 referred 5th above has informed that steps has been initiated by the LAO to hear the petitioner and BVR has been approved as per the proceedings referred 4th above, fixing the land value @ Rs 9,36,978/- Are. It has been mentioned that the BVR has been taken by invoking the provisions contained in Section 26 (1) (b) of LARR Act, 2013 and steps has been initiated to pass awards by invoking the provisions contained in LARR Act, 2013

4. The District Collector, Kottayam in the letter dated 28.02.2021 referred 6th above has informed that land value @ Rs 9,36,978/- Are determined as per proceedings No 01-5974/12 dated 01.10.19 is strictly based on the provisions contained in Section 26 (1) (b) of LARR Act, 2013 and there is no defect.

5. An enquiry has been conducted through Shri G Balachandran Pillai, Revenue Inspector & Shri Sreejith Chandrasekharan, Revenue Inspector and the enquiry report forwarded by CLR as per the reference 7th cited revealed that all sale deeds similar to the 'land type' of land acquired and executed within a specific period are not taken into account for valuation purposes. It has also been revealed that there is ambiguity in the assessment of market value under Section 26 of the LARR Act, 2013. As per the D.O No 40/2021/PrlSecy(Rev) dated 26.04.2021 referred 8th above based on the enquiry report submitted by CLR, the following directions were issued to the District Collector, Kottayam.

(i) The valuation has been done under Section 26(1)(b) of the LARR Act, 2013 but the sale deeds of all similar types of land in the nearest village or near vicinity area have not been considered as provided in the said Act.

(ii) During the period from 25.06.2010 to 25.06.2013, the number of sale deeds executed in Meenachil SRO in respect of Lalam and Puliyanoor Villages as 638 and 1538 respectively. But only 8 deeds in total are considered for determination of award. No action was taken by the Tahsildar to find the deeds of similar type of lands from the said 2176 sale deeds and to consider all of them for valuation. This, in turn, is contrary to the provisions of the Act.

(iii) The report stated that the Tahsildar had carried out the valuation of the land following various precedents and certain procedures in the Acquisition act of 1894. Examples include the exclusion of sale deeds that are less than 10 cents, and the exclusion of some

sale deeds with the assumption that the consideration recorded in such deeds are very high and are transacted on fancy prices. If the lands involved in all such sale deeds are similar to the land being acquired, then the sale price mentioned therein must be considered for valuation under the LARR Act, 2013.

6. The District Collector, Kottayam was informed that if the award in this case is approved, it is proposed to rectify it by taking suo mottu action under section 33 of the LARR Act, 2013. If the award has not yet been approved, the Tahsildar should be instructed to rectify the short comings mentioned above and re-determine the land value.

7. As per Proceedings No G1-5974/12 dated 26.11.2021 referred 9th above the BVR (land value) has been redetermined as 9,50,694/-. Dissatisfied with the BVR rate Shri Sajan P M has filed Review Petition u/s 36 of LARR Act, 2013 as per the reference 10th above to stay all further proceedings in furtherance of No G1-5974/12 dated 26.11.2021.

8. As authorized by the Additional Chief Secretary, Revenue, the Deputy Secretary heard the petitioner on 17.01.2022 by invoking the 1st proviso to section 36 of LARR Act, 2013. After perusal of all documents the Hearing Officer came to the following conclusions:

(i) It is necessary to seek an explanation from the officials who prepared the BVR and passed the award.

(ii) To collect details of all sale deeds of the same type executed in the near vicinity area and adjoining village of the land in question during the period from 25.06.2010 to 25.06.2013 and to re-determine the compensation under section 26(1) (b) of the 2013 Act on that basis.

(iii) To bring the above facts to the notice of AG, Ernakulam

9. As per the letter referred 11th above, the District Collector, Kottayam was directed to seek an explanation from the officials who prepared the BVR. Further it was directed to collect details of all sale deeds of the same type executed in the near vicinity area and adjoining village of the land in question during the period from 25.06.2010 to 25.06.2013 and to re-determine the compensation under section 26(1) (b) of the LARR Act, 2013.

10. The District Collector, Kottayam as per the letter referred 12th above has forwarded the Proceedings No G1-5974/12 dated 19.05.2022 redetermining the BVR as Rs 10,14,309/-.

11. It is observed that the Special Tahsildar has re-determined the market value in complete rejection of the Government's direction. The said section 26 (1) (b) is added below:

“26 (1) (b)- The average sale price for similar type of land situated in the nearest Village or near vicinity area”

12. Nowhere in the Act is there any provision to compare the commercial value or road access of similar type of lands taken into account for the valuation of the land to be acquired. Section 26 of the Act stipulates that only the average of the market value mentioned in the deeds of all similar type of land executed within three years in the Near vicinity or in the nearest Village should be taken into account. In this way, even the price of land in the nearby Villages can be taken into account, and the omission of deeds with high consideration (sales value) in reference to distance, commercial significance and road access is seen as illegal and contrary to the principle of fair compensation mentioned in the Act. It is therefore imperative that a comprehensive enquiry into this matter is carried out.

13. Government have examined the matter in detail and hereby constitute an enquiry

team with the following members to enquire in the re-determination of land value (BVR) done with regard to the acquisition of 5.47 Ares of land in Re Sy No 7/33-1, 7/44-1 of Puliyanoor Village for the construction of parallel road from R V Junction to Puliyanoor in Pala, Kottayam.

**I. Officers in the enquiry team-**

- (i) Shri Sabin Sameed, Dy Collector, Vigilance South Zone, Thiruvananthapuram
- (ii) Shri Saji T, Junior Supt., O/o Dy Collector (Vig- SZ), Thiruvananthapuram
- (iii) Shri G. Balachandran Pillai, Revenue Inspector, Revenue Manual Cell, O/o Commissioner LR
- (iv) Shri Harichandra Prasad, Sr Clerk, O/o the Dy Collector (Vig-SZ), Thiruvananthapuram

**II. Terms of references- Examine and report whether**

- i. Deeds of all the similar types of lands in the near vicinity and the nearby village of the land in question executed within a period from 15.06.2010 to 25.06.2013 have been taken into account for the valuation of the said land?
- ii. There are discrepancies in the valuation report prepared by the Special Tahsildar and what are the remedies to rectify them?
- iii. There has been a deliberate omission on the part of the staff of the LA Unit in relation to the acquisition proceedings in this case?
- iv. There has been a violation of instructions given by Govt/Commissioner LR ?

(By order of the Governor)

**DR A JAYATHILAK I A S**  
**ADDITIONAL CHIEF SECRETARY**

To:

The Commissioner of Land Revenue, Thiruvananthapuram  
The District Collector, Kottayam  
Shri. Sabin Sameed, Dy Collector, Vigilance South Zone, Thiruvananthapuram  
The Accountant General (A&E/ Audit), Kerala, Thiruvananthapuram  
The I& PR(W& NM) Department  
Stock File/ Office copy  
Copy to: PS to Hon'ble Minister(Revenue)  
PA to Additional Chief Secretary (Revenue &DM)  
CA to Special Secretary(Revenue)  
CA to Additional Secretary (Revenue)

Forwarded /By order

Section Officer