

**(2016) 06 KL CK 0035**  
**In the High Court Of Kerala**  
**Case No : WP(C). No. 12844 of 2016-E**

M/s. Hexa Tech Developers Pvt. Ltd.

APPELLANT

Vs

State of Kerala

RESPONDENT

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**Date of Decision :** 09-06-2016

**Acts Referred:**

**Citation :** (2016) 3 KHC 748 : (2016) 3 KLT 82

**Hon'ble Judges :** P.B. Suresh Kumar, J.

**Bench :** Single Bench

**Advocate :** Sri. T.R.S. Kumar, Advocate, for the Petitioners; Government Pleader, Sri. Manzoor Ali, for the Respondent Nos. 1 to 4; Sri. Varghese K. Paul, SC, for the Respondent No. 5

**Final Decision :** Disposed Off

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## Judgement

P.B. Suresh Kumar, J.—An item of property owned by the petitioners measuring 54.513 Ares was proposed to be acquired for Moolampilly-Pizhala project of the fifth respondent authority. When the fifth respondent sought sanction of the Government for acquiring the land required for the said project, the Government as per Ext.R5(a) order permitted the District Collector, Ernakulam to take necessary steps to purchase the land after negotiating with the owners on condition that the fifth respondent shall make available sufficient funds for the same. It is seen that pursuant to Ext.R5(a), the District Collector attempted to acquire the land required for the project from the owners concerned through negotiation at the price fixed by the District Level Purchase Committee constituted by the Government for fixing the market value of the land required for various projects. According to the petitioners, though they have participated in the meetings convened by the District Collector for the said purpose, they did not agree to transfer the property at the price fixed by the District Level Purchase Committee. It is their specific case that nevertheless, the land owned by them has been taken possession by the fifth respondent for the project. The petitioners, therefore, seek directions to the respondents to return

their property or in the alternative, initiate proceedings for payment of compensation due to them under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The fifth respondent has filed a statement. The stand taken by the fifth respondent in the statement is that the petitioners have participated in the meetings convened by the District Collector for acquisition of properties required for the project through negotiation and agreed to surrender their land at the rates prescribed by the District Level Purchase Committee for the said purpose. It is also contended by the fifth respondent that the petitioners have voluntarily surrendered their property for the project. It was, however, conceded that no document whatsoever is available with the respondents to show that the petitioners have agreed to surrender their property for the project at the rates prescribed by the District Level Purchase Committee. It is also conceded that no document whatsoever is available with the respondents to show that the petitioners have surrendered their land for the project voluntarily.

3. Heard the learned counsel for the petitioners, the learned Government Pleader as also the learned Standing Counsel for the fifth respondent.

4. The fact that the property of the petitioners has been made use of for the project of the fifth respondent is not in dispute. Likewise, the fact that no compensation whatsoever has been paid to the petitioners for their land is also not in dispute. At the time of hearing, the learned counsel for the petitioners conceded that the petitioners do not want the property back and that they are satisfied with a direction to the respondents to determine and disburse the compensation payable to them under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5. Having regard to the facts and circumstances of the case as also the submission made by the learned counsel for the petitioners, the writ petition is disposed of on the following lines :

(i) The respondents shall forthwith initiate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for acquisition of the property of the petitioners, which has already been made use of for the project of the fifth respondent and determine and disburse the compensation payable to the petitioners, within six months.

(ii) In so far as the property of the petitioners has already been made use of for the project, the respondents shall pay to the petitioners, in the meanwhile, 80% of the compensation determined by them as due to the petitioners in respect of their property. This shall be done within 30 days from today.