

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR
&
THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.**

Friday, the 24th day of October 2025 / 2nd Karthika, 1947
RP NO. 972 OF 2025 IN WP(C) 30391/2024(S)

REVIEW PETITIONERS/RESPONDENTS 9 & 17:

1. THE PROJECT DIRECTOR (SOUTH EAST), NATIONAL HIGHWAY AUTHORITY OF INDIA, PROJECT IMPLEMENTATION UNIT, EAST BTSRRA-125, BTS ROAD, EDAPPALLY, KOCHI, PIN - 682 024.
2. NATIONAL HIGHWAY AUTHORITY OF INDIA, G 5 & 6, DABRI-GURGAON ROAD, SECTOR 10, DWARAKA, NEW DELHI, REPRESENTED BY ITS CHAIRMAN, PIN - 110 075.

RESPONDENTS/PETITIONER & RESPONDENTS 1 TO 8 AND 10 TO 16:

1. M.N. JAYACHANDRAN, AGED 65 YEARS, S/O. NARAYANAN NAIR, MUNADAMATTAM, THODUPUZZHA P.O., IDUKKI DISTRICT, PIN - 685 584.
 2. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE, JOR BAGH ROAD, LODI COLONY, NEW DELHI, PIN - 110 003.
 3. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
 4. THE PRINCIPAL SECRETARY, PUBLIC WORKS DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
 5. THE PRINCIPAL SECRETARY, FOREST AND WILD FOREST AND WILD LIFE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
 6. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS & HEAD OF FOREST FORCE, FOREST HEADQUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM DISTRICT, PIN - 695 014.
 7. THE CHIEF CONSERVATOR OF FOREST, HIGH RANGE CIRCLE, KUMARANALLOOR, KOTTAYAM DISTRICT, PIN - 686 016.
 8. THE DISTRICT COLLECTOR, IDUKKI DISTRICT, CIVIL STATION, PAINAVU P.O., KUYILIMALA, IDUKKI DISTRICT, PIN - 685 603.
 9. THE DIVISIONAL FOREST OFFICER, MUNNAR DIVISION, DEVIKULAM P.O., IDUKKI DIST., PIN - 685 613.
 10. THE EXECUTIVE ENGINEER (PWD), NATIONAL HIGHWAY DIVISION, SH 1, ARAMANA JUNCTION, THOTTUMKALPEEDIKA, MUVATTUPUZZHA, ERNAKULAM DISTRICT, PIN - 686 673.
 11. THE THAHASILDAR, DEVIKULAM TALUK OFFICE, DEVIKULAM, DEVIKULAM CIRCULAR ROAD, IDUKKI DISTRICT, PIN - 685 613.
 12. THE VILLAGE OFFICER, MANNAMKANDAM VILLAGE OFFICE, MANNAMKANDAM, ADIMALI, IDUKKI, PIN - 685 661.
 13. THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (VIGILANCE), FOREST HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN - 695 014.
- P.T.O.

14. THE DIVISIONAL FOREST OFFICER (DFO), FLYING SQUAD DIVISION, THANKALAM, KOTHAMANGALAM, ERNAKULAM, PIN - 686 666.
15. THE RANGE FOREST OFFICER, NERIAMANGALAM, RANGE FOREST OFFICE, ALUVA MUNNAR ROAD, NH 85, IDUKKI DISTRICT, PIN - 685 561.
16. EKK INFRASTRUCTURE LTD., 2ND FLOOR, MUNICIPAL BUILDING K.M. ROAD, PERUMBAVOOR, ERNAKULAM DISTRICT, REPRESENTED BY ITS CHAIRMAN, PIN - 683 542.

Review Petition praying that in the circumstances stated in the affidavit filed along with the RP the High Court be pleased to allow the Review Petition and review the order dated 11-07-2025 in W.P.(C)No. 30391/2024 and allow the review petitioner to continue the construction without getting any further permission from the State Government and the Ministry of Environment.

This petition coming again on for admission upon perusing the petition and the affidavit filed in support of RP, this Court's order dated 11/07/2025 in WP(C) 30391/2024 & order dated 7/10/2025 in RP 972/2025 and upon hearing the arguments of DR.K.P.SATHEESAN (SENIOR ADVOCATE) along with M/S. P.MOHANDAS (ERNAKULAM), K.SUDHINKUMAR, SABU PULLAN, GOKUL D. SUDHAKARAN, R.BHASKARA KRISHNAN & BHARATH MOHAN, Advocates for the review petitioners/R9 & R17 in WP(C), SRI.K.SANDESH RAJA, Advocate for R1 in RP/petitioner in WP(C), SRI.K.GOPALAKRISHNA KURUP, ADVOCATE GENERAL, SRI.N.MANOJ KUMAR, STATE ATTORNEY & SRI.S. KANNAN, SENIOR GOVERNMENT PLEADER for R3 to R15 in RP/R2 to R8 & R10 to R15 in WP(C) and of M/S. DEEPU THANKAN, UMMUL FIDA, LAKSHMI SREEDHAR, CINDIA S., POOJA CHANDRAN & GAYATHRI G., Advocates for R16 in RP/WP(C), the court passed the following:

P.T.O.

NITIN JAMDAR, C. J.
&
SYAM KUMAR V.M., J.

=====

R. P. No. 972 of 2025

in
W.P.(C) No. 30391 of 2024

=====

Dated this the 24th day of October, 2025

ORDER

Nitin Jamdar, C.J.

This review petition is filed by the National Highways Authority of India seeking modification of the interim order dated 11 July 2025 passed in W.P.(C) No. 30391 of 2024. Though the application is confined to modification of the interim order, in view of the vacillating and unclear stand taken by the State Government, it becomes necessary to narrate the background as noted in the earlier order in some detail.

2. The subject matter of the writ petition is the expansion of National Highway-85 (NH-85) along the Neriamangalam – Valara stretch in Idukki District, Kerala. The Petitioner challenges Exhibit-P3 order dated 17 May 1996 by which the objection raised by the Forest Department to the road improvement work was overruled, and the Pallivasal – Neriamangalam stretch of the road was stated to be transferred from the Forest Department to the Public Works Department. The Petitioner has also sought a declaration that the forest land on both sides of NH-85 in the Neriamangalam – Valara stretch constitutes reserved forest under Exhibit-P1 notification, published in the Travancore Government Gazette No. 28, Volume XXXIII, dated 9 July 1895.

R. P. No. 972 of 2025

-.2:-

3. Respondent No. 1 in the writ petition is the Union of India, represented by the Secretary, Ministry of Environment, Forest and Climate Change. Respondent No. 2 is the Chief Secretary, State of Kerala, and Respondent No. 3 is the Principal Secretary, Public Works Department. Respondent No. 4 is the Principal Secretary, Forest and Wildlife Department. Respondent Nos. 5, 6, 8, 13, 14, and 15 are officers of the Forest Department, while Respondent No. 7 is the District Collector. Respondent Nos. 9, 10, and 17 are the Project Director and Executive Engineer of the National Highways Authority of India (NHAI) and the NHAI represented through its Chairman. Respondent No. 16 is the contractor.

4. The NHAI is undertaking the widening of NH-85, forming part of the Kochi – Madurai Highway. According to the Petitioner, the land along the Neriamangalam – Valara stretch constitutes reserved forest, and therefore, no non-forest activity can be carried out therein except in accordance with the Kerala Forest Act, 1961 (Act 4 of 1962), read with the Forest (Conservation) Act, 1980 (Act 69 of 1980). The Petitioner has produced a notification issued under the Travancore Forest Regulation, 1068 (Regulation II of 1068), declaring the tract of land specified therein as reserved forest, which includes the present stretch. It is contended that since this area stands declared as reserved forest and continues to be so by virtue of the Travancore – Cochin Forest Act, 1951 (Act III of 1952), and thereafter under Act 4 of 1962, no dereservation can be effected

R. P. No. 972 of 2025

-:3:-

unless a notification is issued in the Gazette with prior approval of the Central Government, as required under Act 69 of 1980 and the Forest (Conservation) Rules, 2003. Accordingly, non-forest activities cannot be carried out without such permission. The Petitioner further contended that the order issued by the Secretary, Public Works Department, on 17 May 1996, stating that a 100-foot-wide stretch (50 feet on either side from the centre of the road) of the Pallivasal–Neriamangalam road, along with adjoining quarries for metal and rubble, stood transferred from the Forest Department to the PWD in 1932, cannot operate as a dereservation of the notified reserved forest. The Petitioner has, therefore, sought a writ for quashing Exhibit-P3 order dated 17 May 1996 and a declaration that the said order does not authorise the carrying out of non-forest activities in the area, and that the forest land on both sides of NH-85 in the Neriamangalam – Valara stretch constitutes reserved forest.

5. Earlier, Writ Petition (Civil) No. 10978 of 2024 was filed by certain residents of Idukki, seeking a direction to the Forest Department not to object to the widening of NH-85 in the Neriamangalam – Valara stretch to a width of 50 feet on both sides from the centre of the existing road. The NHAI filed a statement before the Division Bench asserting that, as per the revenue records, the Neriamangalam – Valara stretch has been classified as road puramboke since 1 April 1997, and therefore, the Forest Department could not raise any objection. Based on this statement, the Division Bench directed that the Forest Officials shall not raise any

R. P. No. 972 of 2025

-:4:-

objection or interfere with the widening of the road by the NHAI, and disposed of the Public Interest Litigation by judgment dated 28 May 2024.

6. The writ petitioner thereafter filed Review Petition No. 956 of 2024 against the judgment dated 28 May 2024, contending that all relevant facts and the notification were not placed before the Court by the State Government. It was asserted that the land in question is a reserved forest land, and that the finding in the judgment treating it as revenue land based on the revenue records is incorrect. The Division Bench observed that, while entertaining the public interest petition, it had only considered the aspect of the construction undertaken by the NHAI, and that the question of whether the land is revenue land or forest land has to be determined in appropriate proceedings initiated by the petitioner. The Division Bench accordingly, left that question open and clarified that it had not made any conclusive finding on whether the land in question is revenue land or forest land.

7. When the writ petition came up for hearing on 12 December 2024, the learned Special Government Pleader appeared for Respondent Nos. 2 to 8, 11, and 12, while the learned Senior Central Government Counsel appeared for Respondent Nos. 1 and 9. Considering that various departments of the State Government were involved, and that several critical issues arose such as the status of the forest, the requirement of environmental clearance, and the necessity of the project undertaken by

R. P. No. 972 of 2025

-:5:-

the NHAI, the Court granted time for the Chief Secretary of the State to file a counter affidavit. After taking several adjournments, an affidavit was filed by the Additional Chief Secretary on behalf of the Chief Secretary, wherein a different stand was taken as follows:

“4. With regard to the averments contained in paragraph numbers 6 and 7 of the writ petition, it is submitted that Exhibit-P1 notification issued by the former Government of Travancore under Section 18 of the Regulation II of 1068 shows that the tract of land included in the notification has been a reserved forest from the date of issue of the notification. The stretch of land which is the subject matter of the present dispute is not seen excluded from the reserve at the time of settlement of rights or at any point of time afterwards. Moreover it is submitted that the Exhibit-P3 order was just a decision to settle a small extent of land (320 metres) and not anything beyond though the language of the order point to it.

5. With regard to the averments contained in paragraph 8 of the writ petition, it is relevant to note that the Pallivasal – Neriamangalam road is situated within the above cited reserved forest, viz, the Malayattur – Idiyara Reserve Forest. It is also not disputed that the portion of the road has not been dereserved as envisaged under Section 20 of the Travancore Forest Regulation II of 1068.

6. With regard to the averments contained in paragraph numbers 9 to 11 of the writ petition, it is pertinent to note that reserve forest will continue as reserved forest till it is dereserved under Section 20 of the Travancore Forest Regulations. The provisions of Travancore Forest Regulation II of 1068 and subsequent enactments have

R. P. No. 972 of 2025

-:6:-

been saved by Section 85 of the Kerala Forest Act, 1961. It is submitted that by virtue of Exhibit-P1 notification, the said area also comes under reserve forest.

7. With regard to the averments contained in paragraph numbers 12 and 13 of the writ petition, it is submitted that the Honourable Court had issued Exhibit-P2 judgment based on the observation that the land along the side of the road has been shown as road puramboke in revenue records with effect from 01.04.1997, and therefore, consent of the Central Government is not required for widening the road. Paragraph 3 of the judgment is as follows:

"The question is whether the above stretch is forming part of forest or not. As per the Revenue Records, this stretch is shown as road puramboke. Therefore, without any correction of records, it cannot be assumed that it is a forest land. If the Forest officials are of the view that this will have to be treated as a forest land, they have to take steps in accordance with the law. So long as the land in the revenue records is reflected as road puramboke and non forest land, there is no requirement under law to obtain previous consent of the Central Government. The Forest Authority cannot, therefore, raise objection as to the nature of land without having an objection raised before the revenue officials at the first instance. Therefore, we order that the forest officials shall resist from raising any objection and interfering with widening of the road by the National Highway Authorities. Ordered accordingly. The writ petition is disposed of as above."

R. P. No. 972 of 2025

-:7:-

8. However, the above judgment has been reviewed vide judgment dated 02.12.2024 in RP No. 956/2024 in WP(C) No. 10978/2024 and it was made clear that the question whether the above said land is forest land or revenue land is left open to be decided in the above case.

9. With regard to the averments contained in paragraph number 14 of the writ petition, it is submitted that it is not disputed that Exhibit-P2 judgment had been rendered, taking into consideration the entry in the revenue records with effect from 01.04.1997 which is alleged to be based on Exhibit-P3 Government order. But however, the same has been reviewed vide judgment dated 02.12.2024 in RP No. 956/2024 in WP(C) No. 10978/2024 as stated above. True copy of judgment dated 02.12.2024 in RP No. 956/2024 in WP(C) No. 10978/2024 is produced herewith and marked as Exhibit-R2(a).

10. In this regard, it is relevant to note that the Forest (Conservation) Act, 1980 was amended in 2023 and came into force from 01.12.2023 onwards. Section 1A(i) of the Act brings in the following lands as covered under the provisions of the Act viz:

(a) the land that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force; (b) the land that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25th October, 1980:

Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before 12th December 1996 in

R. P. No. 972 of 2025

-:8:-

pursuance of an order issued by any authority authorized by a State Government or a Union Territory Administration in that behalf.

11. As per Section 2 of the Act, no forest land or any portion thereof may be used for any non-forest purpose except with the prior approval of the Central Government. Construction/widening of road mentioned as in the present case is a non-forestry activity within the purview of Section 2(ii) of the Act for which prior approval from Central Government is to be obtained.”

The Ministry of Environment and Forest (MoEF), Union of India, in its affidavit, stated that it is for the State Government to decide the legal status of the land in question.

8. Based on the position placed on record by the State that the area is a reserved forest, the applicable statutory provisions, and the stand of the MoEF, an order was passed on 11 July 2025, observing as under:

“23. As regards interim arrangement, as of today, the position emerging from the conjoint reading of Act II of 1068, the Act III of 1952, the Act 4 of 1962, the Act 69 of 1980; the notification issued on 1 July 1895; and the stand taken on oath by the State that no notification has been issued to dereserve the subject area and that it remains a reserved forest until it is dereserved, prima facie, the legal status of the subject area covered by the notification dated 1 July 1895, has to be held as a reserved forest. Therefore, the further steps to be taken by the NHAI and the Respondents will have to be on the basis of this legal status of the area in question. Regarding the work covered under Exhibit-P4, dated 12

R. P. No. 972 of 2025

-:9:-

September 2024, issued by Respondent No.1 – the Ministry of Environment, it is clarified that there is no restraint order on the Respondent, NHAI. If the NHAI applies for permission to the State Government and the Ministry of Environment on the above basis, and there is undue delay on the part of these authorities in processing the permission, liberty is granted to the NHAI to take an application in this petition for time bound direction.”

Thereafter, the NHAI filed this review petition on 26 July 2025 for modification of the order.

9. The NHAI, placing on record the Travancore Government Gazette Notification R.O.C. No. 5137/38/Devpt. dated 2 August 1938, contended that this notification was issued under Section 20 of the Travancore Forest Regulation II of 1068 and constitutes a disafforestation notification. It was submitted that this notification of 2 August 1938 had not been brought to the notice of the Court earlier and as per the said notification, the entire block situated within the Malayattoor Reserved Forest, lying to the west of the divisional boundary between Devikulam and Kottayam Revenue Divisions, and on either side of the Neriamangalam–Pallivasal road, between its 31st and 41st mile, forming part of the Aluva–Munnar road between the 5th furlong of the 46th mile and the 4th furlong of the 56th mile, and comprising certain survey numbers in Kothamangalam Pakuthy, Muvattupuzha Taluk, was excluded from the reserve forest. It was stated that, since these materials were discovered subsequently and in view of the order dated 11 July

R. P. No. 972 of 2025

-:10:-

2025, the construction of NH-85 had come to a standstill, and therefore, modification of the said order was sought.

10. When the review petition came up for hearing on 21 August 2025, the State again altered its stand. The learned Advocate General appearing for the State orally submitted that upon examining the records, the affidavit filed earlier by the State may not be correct, and sought time. Subsequently, on 18 September 2025, the State again sought time, and on 30 September 2025, ultimately after adjournments, the State Government, through the Chief Secretary, filed an affidavit taking a position entirely different from that stated in its earlier affidavit. Respondent No. 1 / the Writ Petitioner, has filed a reply to this subsequent affidavit of the State Government.

11. We have heard Mr. K. P. Sathesnan, learned Senior Advocate assisted by Mr. P. Mohandas (Ernakulam), learned counsel for the Review Petitioners, Mr. K. Gopalakrishna Kurup, learned Advocate General assisted by Mr. S. Kannan, learned Senior Government Pleader, Mr. K. Sandesh Raja, learned counsel for Respondent No. 1, and Mr. Deepu Thankan, learned counsel for Respondent No. 16.

12. The learned Senior Advocate appearing for the Review Petitioners NHAI has relied upon the affidavit dated 30 September 2025 now filed by the Chief Secretary and supported the contentions of the learned Advocate General. The learned Advocate General, in short, submitted

R. P. No. 972 of 2025

-:11:-

that construction of the High Range Road, specifically the Neriamangalam – Munnar section forming part of the Aluva – Kuttamangalam – Neriamangalam – Valara – Adimaly – Pallivasal – Munnar route, was undertaken in 1927 after the 1924 floods destroyed the old Aluva – Munnar road via Pooyamkutty and Mankulam. The new road was completed in 1930 and the Neriamangalam Bridge was inaugurated on 2 March 1935. By communication R. Dis. No. 500/32/PW dated 21 April 1932, the Travancore Government informed the Chief Engineer, PWD, that a strip of land measuring 50 feet on either side of the central alignment of the proposed Neriamangalam – Pallivasal road had been demarcated for road construction, with a copy forwarded to the Conservator of Forests for appropriate action. Only a manuscript copy of this letter is now available. It was further contended that, under a notification issued pursuant to Section 20 of the Travancore Forest Regulation II of 1068, an extent of 488.01 acres (D Block) together with 1,986.28 acres (Blocks A, B, and C of Mannamkandam Valley in Kuttamangalam Pakuthy, Muvattupuzha Taluk) was formally disafforested from the Malayattoor Reserve Forest. These lands had earlier been excluded under the Government Notification No. Dis. 1807/36/Development dated 11 August 1936, and were to be treated as a single block enclosed within the Malayattoor Reserve Forest, located west of the boundary between the Devikulam and Kottayam Revenue Divisions and on either side of the Neriamangalam – Pallivasal road between the 31st and 41st mile. It was also submitted that the stretch from

R. P. No. 972 of 2025

-:12:-

the Neriamangalam Bridge to Iruttukanam near Koompanpara spans about 37.5 kilometres, covering approximately 285.40 acres (115.50 hectares) in Mannamkandam Village. Of this, 77.29 hectares in Block No. 5 (Valara Kuthu to Koompanpara) and 38.02 hectares in Block No. 4 (Ranikallu to Valara Kuthu) are classified in the Basic Tax Register as Government road puramboke. In the affidavit dated 30 September 2025, the Chief Secretary states as under:

“i. In the year 1932, 100 feet width of land for the Pallivasal – Neriamangalam road was transferred to PWD by R. Dis. No. 500/32/PW dated the 21-04-1932 of Revenue Department.

ii. In the year 1938, by Notification ROC No. 5137/38/Devpt. dated 02.08.1938, 2,775.94 acres were disafforested and excluded from the Malayattoor Reserve Forest for road construction and developmental activities.

iii. In the year 1996, by G.O. (Ms) No. 73/1996/PW&T again confirmed the transfer of 100 feet of land for the Pallivasal – Neriamangalam road.

It is, therefore, not legally or factually sustainable that only this stretch of a continuous road, existing for nearly ninety years, could be treated as forest land.”

As regards the earlier contrary stand, the only explanation offered is in paragraph 29, wherein it is stated that the factual and legal positions referred to above had remained unnoticed, as the relevant documents were not available at the time of filing the counter affidavit on 27 March

R. P. No. 972 of 2025

-:13:-

2025 in the writ petition. It is further stated that upon tracing and examining the records and documents, the correct factual and legal position is now being presented through the present affidavit. Having initially stated in an affidavit filed pursuant to the directions of this Court that the stretch forms part of a reserved forest and that no notification has been issued for its dereservation, the Chief Secretary now contends that by virtue of the notification dated 2 August 1938, the area was dereserved, which, according to the State, was subsequently confirmed by a Government Order issued in 1996.

13. The Writ Petitioner has filed a counter affidavit dated 12 October 2025, annexing the *Travancore Almanac & Directory* for 1937 (published under the orders of His Highness the Maharaja), the survey map obtained under the Right to Information Act, 2005, and the geo-referenced maps of the dereserved A, B, C, and D Blocks, as well as the geo-referenced Devikulam Division Map of Travancore overlaid on 'OpenStreetMap'. The Writ Petitioner in reply to the counter affidavit, referring to the portion mentioned in Annexure 2 notification, under the sub-heading 'Situation' which explains the lie and location of the area, submitted that the area explained therein cannot be the 31st mile of 'Neriamangalam – Pallivasal Road' since there is no such road, and the same can only be from Muvattupuzha and not from Neriamangalam. According to the learned counsel, the distance from Muvattupuzha to Irumbupalam tallies exactly with the 31 miles mentioned. The sum and

R. P. No. 972 of 2025

-:14:-

substance of the contentions thus put forth by the learned counsel for the Writ Petitioner is that the stretch from Neriamangalam to Valara, i.e, the disputed area, does not come within the ambit of Annexure 2 notification. Reliance is also placed upon Exhibit-R1(c), copy of the relevant extract of the Travancore Almanac and Directory published in the year 1937, which provides the details of Aluva – Munnar road. It is contended that the land dereserved in Annexure 2 notification is the extent of land on both sides of Aluva – Munnar road from Irumbupalam to Koompanpara, and not the existing reserve forest land on both sides of NH-85 from Neriamangalam to Valara. It is stated that this can be seen from overlaying the geo-referenced map of Exhibit-R1(a) sketch on the open-source mapping tool, which shows that the land included in Annexure 2 notification is not the reserve forest land in the stretch between Neriamangalam and Valara, and that the disputed land in the writ petition is altogether a different land.

14. The Writ Petitioner has produced maps which are Government records, obtained under the Right to Information Act, 2005, to demonstrate that the stretch of the road referred to in the notification dated 2 August 1938 and the Government Order dated 17 May 1996 (Exhibit-P3) is distinct from the one presently under consideration. Since there is no specific mention of the road and the Writ Petitioner has already placed Government maps on record, it was expected of the Chief Secretary to at least identify the site on the ground and examine the

R. P. No. 972 of 2025

-:15:-

notification dated 2 August 1938 with reference to geo-markers reflecting the present position, as has been done by the Petitioner. The situation at the site, *prima facie*, is not clear, and the Petitioner has raised several factual issues that can be resolved only through precise demarcation on the ground. The learned Advocate General has merely criticized the Petitioner's version but has not produced any survey, map, or corroborative material on record. As stated earlier, there continues to be a divergence of views among different departments of the State Government, and their stands in the affidavits have been inconsistent and shifting, and the ambiguity is not clear. In the counter affidavit of the Chief Secretary, the only document annexed is a letter dated 21 April 1932. No other supporting material reconciling the old and current maps has been produced. The State now relies upon the notification dated 2 August 1938, placed on record by the NHA, and has sought to comment on the material produced by the Review Petitioner.

15. Further, the Writ Petitioner has asserted the following factual position which demonstrates that there is no clarity even within the State Government:-

“33. The petitioner reliably understands from the press and other sources that a meeting has been convened in the office of the Honourable Forest Minister in the last week of August 2025 and after taking into consideration the interim order passed by this Hon'ble Court in the present writ petition, it was pointed out by the Forest Department that the land in Annexure 2 notification is

R. P. No. 972 of 2025

-:16:-

not part of the disputed land in the present writ petition and the same is altogether a different land. It is also learnt that the Forest Minister has decided to request the NHAI to give an application in the Parivesh portal if they are in need of additional forest land and the draft additional affidavit is to be placed before the chief Secretary for approval.

34. The petitioner further reliably understands that another meeting was conducted by the Chief Secretary in the first week of September 2025 which was presided over by the Hon'ble Chief Minister of the State of Kerala. It is also learnt that the Chief Secretary has given two suggestions, one to direct the review petitioner to apply under the Parivesh Portal and after getting the consent of the Central Government, the work can be restarted, and the second one is that the forest department shall forego the claim of the disputed land and to agree that the land is a revenue Puramboke. But, based on the statement of the revenue Secretary in the meeting that the land is revenue puramboke as per the status column in the revenue records, the Hon'ble Chief Minister to the best of the understanding of this petitioner has directed the 3rd respondent to file an affidavit showing the disputed land as revenue puramboke based on the direction issued by this Hon'ble Court to the Chief Secretary. Hence, it is clear from the above said decision in the meeting held in the last week of August and the first week of September that no decision has been arrived at in the above meetings finding that by Annexure 2 notification, the disputed land involved in the writ petition has been de-reserved. To the contrary a correct stand has been taken by the Forest Department and the Forest Minister stating that the disputed land (Reserved Forest land on both sides of the NH – 85 from Neriamangalam to Valara) involved

R. P. No. 972 of 2025

:-17:-

in the above writ petition is not the land dereserved by Annexure 2 notification.”

This position is not controverted. Even otherwise, the manner in which the affidavits are filed shows the internal contradiction.

16. In W.P.(C) No. 10978 of 2024, only the revenue records were placed before the Court to show that the land in question is a revenue land. The writ petitioners thereafter filed a review petition highlighting several complex issues. Keeping this in mind, the Court on 12 December 2024 directed the Chief Secretary to file an affidavit. Despite this, no affidavit was filed on several dates, and repeated adjournments were sought. Ultimately, an affidavit was filed by the Additional Chief Secretary on 27 March 2025, which stated that the land is a reserved forest. The Chief Secretary has now filed another affidavit stating that the earlier one was incorrect and that the land cannot be treated as a reserved forest.

17. The Notification of 1895 gives a declaration of the area therein as a reserved forest. The order which was placed before the earlier Division Bench was issued by the Public Works Department regarding the status of the stretch. Then the affidavit filed by the State Government in this Court stated that no notification for dereservation has been issued and the area continues to be reserved forest. Again an affidavit is filed stating that the area mentioned in the Notification of 1895 is different and this

R. P. No. 972 of 2025

-:18:-

stretch of the road is not a reserved forest. The earlier Division Bench was not guided properly, and therefore, it had to keep the issue regarding the status of the area open. The Writ Petitioner has produced maps with geo-markings to reconcile the earlier records. No such effort is taken by the State Government for producing the maps to demarcate the area. The location of the land will have to be authoritatively determined with reference to the maps and records and not through affidavits or oral arguments. It is not in dispute that the area in question is a hilly area with thick vegetation and there is an ecological angle to the subject matter. The expansion of the highway is also in public interest. In these circumstances, the issue ought to have been looked into by the State Government with some seriousness. We express our disapproval of the manner in which the State Government has dealt with the matter and has failed to properly assist the Court. We, therefore, do not deem it appropriate to give a declaration based on such changing stands on affidavits, but it is necessary for the State Government to pass a specific Government Order with the Chief Secretary speaking on behalf of the State Government reconciling the stand of different departments.

18. At the same time, we have to take note of the grievance of the NHAI regarding the pending work. The primary concern in the writ petition is not with the construction of the National Highway itself, but with the manner in which it is being carried out and the requirement of obtaining proper permissions. Thus, the expansion of the highway

R. P. No. 972 of 2025

-:19:-

ultimately needs to proceed, and the main question is the legal procedure to be followed. The 13 kilometres Neriamangalam – Valara stretch has yet to progress and is an admitted position that the Aluva – Munnar road is extremely busy with the increase in traffic due to the prominence of Munnar as a hill station, and narrow roads put the motorists and the passerby at risk, and this construction is also in public interest. Therefore, some interim arrangement will have to be arrived at that balances both the public interests.

19. Accordingly, the following directions as an interim order:

- i. The NHAI shall furnish to the Chief Secretary the details and particulars of the area proposed for road widening in the Neriamangalam – Valara stretch, along with supporting materials.
- ii. Upon receipt of these details, and with reference to the materials submitted, the Chief Secretary, on behalf of the State Government, shall, at the earliest, pass a reasoned order regarding the status of this land, whether it is reserved forest or not, dealing with all aspects such as the precise location with reference to the maps, the issues raised by the Writ Petitioner based on the maps and other documents, and the materials as may be placed by the Forest Department of the State. This order will be subject to the outcome of the Writ Petition.

R. P. No. 972 of 2025

--:20:-

- iii. If the State Government, through the Chief Secretary, decides to declare that this particular area is not a reserved forest, thereby enabling the NHAI to proceed with the work, it shall direct a joint team of the Revenue and Forest Departments on urgent basis, to demarcate the area and to identify the trees that will be affected. The Chief Secretary will direct the team to ensure that no tree is cleared, or any other area is affected, other than those measured in the joint survey.
- iv. The Chief Secretary may also issue directions regarding safety measures for landslides, ecological protection, and other relevant environmental concerns.
- v. The Project Director of the NHAI shall place responsibility upon the concessionaire to ensure that no work is carried out beyond what is permitted and referred to in the order passed by the State Government.

20. We make it clear that this order, passed in the peculiar facts and circumstances of the case, is restricted to the particular stretch which is required for road widening, and we are not deemed to have declared that the entire area referred to in the notification dated 2 August 1938 is not a reserved forest. It is further clarified that, if it is ultimately decided at the hearing of the Petition that the concerned stretch of the road forms part

R. P. No. 972 of 2025

:-21:-

of a reserved forest, the consequences of breach of the Act 69 of 1980 shall follow.

21. List the petition in the hearing board commencing from 1 December 2025.

Sd/-
NITIN JAMDAR,
CHIEF JUSTICE

Sd/-
SYAM KUMAR V.M.,
JUDGE

Eb & krj/-



//TRUE COPY//

P.A. TO C.J.

APPENDIX OF RP 972/2025

Annexure-2	TRUE COPY OF THE NOTIFICATION ISSUED ROC NO. 5137/38/DEVPT DATED 2-8-1938 ISSUED BY THE DEWAN WITH THE SANCTION OF HIS HIGHNESS MAHARAJA, TRAVANCORE
Exhibit R1(a)	TRUE COPY OF THE SURVEY MAP RECEIVED UNDER THE RIGHT TO INFORMATION ACT FROM THE OFFICE OF THE 9TH RESPONDENT
Exhibit R1(c)	TRUE COPY OF THE RELEVANT EXTRACT OF THE TRAVANCORE ALMANAC AND DIRECTORY PUBLISHED IN THE YEAR 1937
Exhibit P1 in WP(C) 30391/2024	TRUE COPY OF THE GAZETTE NOTIFICATION OF RESERVE MALAYATTOOR RESERVE NO.1 PUBLISHED IN THE GAZETTE DATED 2ND APRIL 1895
Exhibit P3 in WP(C) 30391/2024	TRUE COPY OF THE G.O.[MS] NO.73/94/PW&T DATED 17/05/1996

