

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

*** * ***

WRIT PETITION NO.10280 OF 2022

Between:

Mullapudi Yamini Pushkarini and Others ...Petitioners

And

\$ Union of India and Others ...Respondents

Date of Judgment pronounced : 20-06-2025

THE HON'BLE SRI JUSTICE B.KRISHNA MOHAN

1. Whether Reporters of Local newspapers : Yes/No
may be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No
to Law Reporters/Journals:
3. Whether the Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

JUSTICE B.KRISHNA MOHAN

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% Dated: 20-06-2025

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Mullapudi Yamini Pushkarini and Others ...Petitioners

And

\$ Union of India and Others ...Respondents

! Counsel for the Petitioner(s) : M.R.K.CHAKRAVARTHY

^ Counsel for Respondent(s) : 1. CHAUDARY AND CHAUDARY ADVOCATES
AND SOLICITORS LAW FIRM
2. GP FOR LAND ACQUISITION

<GIST:

>HEAD NOTE:

? Cases referred:

1. (2021) 3 SCC 572
2. (2011) 10 SCC 714
3. (2012) SCC Online AP 148
4. (2005) 13 SCC 477
5. 2005(7) SC 627
6. 2023 SCC OnLine J&K 247
7. (2022) SCC Online SC 362
8. 2021 SCC Online SC 1247
9. (1997)1 SCC 134
- 10.(2011) 12 SCC 69
- 11.MANU/PH/0150/2022

APHC010180142022



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3233]

FRIDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN

WRIT PETITION NO: 10280/2022

Between:

1. MULLAPUDI YAMINI PUSHKARINI,, W/O M.ASHOK AGED ABOUT 29 YEARS, OCC AGRICULTURE, RIO D.NO.3-79, YERRAMPETA, KOYYALAGUDEM MANDAL, WEST GODAVARI DISTRICT, ANDHRA PRADESH
2. PAKALAPATI SHYAM KRISHNA,, S/O P.NAGESWARA RAO AGED ABOUT 41 YEARS, OCC AGRICULTURE, RIO D.NO.2-141, YERRAMPETA VILLAGE, KOYYALAGUDEM MANDAL, WEST GODAVARI DISTRICT, ANDHRA PRADESH
3. MARNI LOKESH CHOWDARY,, S/O M.V.V.BHASKARA RAO AGED ABOUT 30 YEARS, OCC CULTIVATION, RIO D.NO.1-49, YERRAMPETA VILLAGE, KOYYALAGUDEM MANDAL, WEST GODAVARI DISTRICT, A.P
4. KODAVATI RAMA KRISHNA,, S/O K.BULLIRAJU AGED ABOUT 55 YEARS, OCC CULTIVATION, RIO D.NO.5-41, KANNAYAGUDEM VILLAGE, KOYYALAGUDEM MANDAL, WEST GODAVARI DISTRICT, A.P
5. JAMMULA UDAYA BHASKAR,, S/O J.VENKATA DURGA RAO, AGED ABOUT 49 YEARS, OCC CULTIVATION, RIO D.NO.5-5, KANNAYYAGUDEM VILLAGE, KOYYALAGUDEM MANDAL, WEST GODAVARI DISTRICT, A.P

...PETITIONER(S)

AND

1. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF SHIPPING ROAD TRANSPORT AND HIGHWAYS TRANSPORT BHAWAN, 1, PARLIAMENT STREET, NEW DELHI.
2. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY (LAND ACQUISITION) SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT, ANDHRA PRADESH,
3. THE NATIONAL HIGHWAYS AUTHORITY OF INDIA, REP BY ITS CHAIRMAN, 05 AND 6, SECTOR-10, DWARKA, NEW DELHI - 110075.
4. NATIONAL HIGHWAYS AUTHORITY OF INDIA, REPRESENTED BY ITS PROJECT DIRECTOR, NHAI, NU, RAJAHMUNDRY, EAST GODAVARI.
5. THE DISTRICT COLLECTOR, WEST GODAVARI DISTRICT, COLLECTORATE, ELURU, WEST GODAVARI.
6. THE COMPETENT AUTHORITY LA, NH-365 BG AND JOINT COLLECTOR (VS, WS AND D), ELURU, WEST GODAVARI, ANDHRA PRADESH.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction, more particularly one in the Writ of Mandamus, to declare the Notifications, Award Enquiry Notices, Award, Award Notices, Environment Clearance (impact assessment) issued under the provisions of the National Highways Act, 1956 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, EIA Notification, 2006 vide (i) SO.No. 1388 (E) published in Gazette No. 1240 dated 27.04.2020 and under Section 3A of the National Highways Act, 1956 published in Hans India, Andhra Jyothi daily newspapers dated 08.05.2020 (ii) S.O.No.4189(E), MORT and H dated 23.11.2020 published in Gazette No.3687 under Section 3D of the NH Act (iii) Public Notice Rc.No. 1/2020/CALA and JCNHAI/365BG, dated 08.08.2020 published in Praja Sakthi and Hans India newspapers on 20.01.2021 under Section 3(G)(3) of the NH Act (iv) Award Enquiry Notices issued vide R.O.C.No.1/NH-365 BG/2020 dated 20.01.2021 and 23.01.2021 (v) Award.Nos.6/2021/NH-365 BG, 7/2021 /NH-365 BG, dated 15.03. 2021 of the Sixth Respondent under Section 23 of the RFACTLR Act R/w Section 3G of the NH Act (vi) Award Notices issued vide Roc.No.01/2020/NH-365 BG dated 17.07. 2021 under Section 3H(2) of the NH Act,

1956 and Section 26 of the RFCTLRR Act (vii) Proceedings in File No. 10-51/2020-IA.III, dated 23.12.2021 issued for the alleged public purpose for building (widening/two-lane with paved shoulder/four laning etc.), maintenance, management and operation of Khammam - Devarapalli Greenfield National Highway (yet to be Assigned) in the stretch of land from Km 148.285 to Km 220.586 in the district .of West Godavari (office of District Collector Eluru) in the state of Andhra Pradesh issued in respect of the Petitioners land ad-measuring 5909 Sq. Mts (Ac.1-46 Cents), 1255 Sq.Mts (A.c.0- 27 Cents) situated in RS Nos 37/2, 31/2 of Rajavaram Village, 2833 Sq.Mts (Ac.0- 70 Cents) situated in RS.No.233/1B2, 526 Sq.Mts (Ac. 0-12 Cents) situated in Rs No.233/1C2, 40 Sq.Mts (Ac. 0-01 Cent) situated in RS.No. 194/4A, 1336 Sq.Mts (Ac. 0-33 Cents) situated in RS.No.194/5A, 648 Sq.Mts (Ac. 0-16 Cents) situated in RS.No.194/6, 1781 Sq.Mts (Ac.0-44 Cents) situated in RS.No.194/3B, 1538 Sq.Mts (Ac.0-38 cents) situated in RS.No.195/4A, 3278 (Ac.0-81 Cents) situated in RS.No. 195/2B, 122 Sq.Mts (Ac. 0-03 Cents) situated in . 194/7A, 41 Sq.Mts(Ac. 0-01 Cents) situated in RS.No. 194/8A of Eduvadalapalem Village, 17928 Sq.Mts (Ac.4-41 Cents) situated in RS.No.84/2B, 10719 Sq.Mts (Ac.2-65 Cents) situated in RS.No.88/1B, 8215 Sq.Mts (Ac.2-02 Cents) situated in RS.No. 109/2, 607 Sq.Mts (Ac.0-14 Cents) situated.. in RS.No. 108/2F1 of Kannaigudem Village all of Koyyalagudem Mandal, West Godavari District as illegal, arbitrary, wholly without jurisdiction and violative of Articles 14, 19, 21 and 300-A of the Constitution and consequently quash the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case Prayer is amended as per the Court Order dated.30.01.2024 vide order passed in IA No.01 of 2024.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings pursuant to the Gazette No.2888 dated 25.07.2018, Gazette. No. 1240 dated 27.04.2020 in SO.No.1388 (E) dated 27.04.2020 under Section 3A(1) of the National Highways Act, 1956 published in Hans India, Andhra Jyothi daily newspapers dated 08.05.2020, Gazette No.3687 in S.O.No.4189(E), MORT & H dated 23.11.2020 under Section 3D, Public Notice Rc.No.1/202020/CALA&JC/ NHAI/365BG, dated 08.08.2020 published in Praja Sakthi and Hans India news papers on 20.01.2021 under Section 3(G)(3) and Award Nos.05/2021/N.H.365 BG, 6/2021/ N.H.365 BG and 7/2021/NH-365BG dated 15.03.2021 under Section 3(G)(1) of the National Highways Act, 1956 R/w Section 23 & Schedule-I of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation Act and Resettlement Act, 2013 in respect of the

Petitioners lands to an extent of 5909 Sq.Mts (Ac.I-46 Cents), 1255 Sq.Mts (Ac.0-27 Cents) situated in RS.Nos.37/2, 31/2 of Rajavaram Village, 2833 Sq.Mts (Ac.0-70 Cents) situated in RS.No.233/1B2, 526 Sq.Mts (Ac.0-12 Cents) situated in RS.No.233/1C2, 40 Sq.Mts (Ac.0-01 Cent) situated in RS.No.194/4A, 1336 Sq.Mts (Ac.0-33 Cents) situated in RS.No.194/5A, 648 Sq.Mts (Ac.0-16 Cents) situated in RS.No.194/6, 1781 Sq.Mts (Ac.0-44 Cents) situated in RS.No.194/3B, 1538 Sq.Mts (Ac.0-38 Cents) situated in RS.No.195/4A, 3278 (Ac.0-81 Cents) situated in RS.No.195/2B, 122 Sq.Mts (Ac.0-03 Cents) situated in RS.No.194/7A, 41 Sq.Mts (Ac.0-01 Cents) situated in RS.No.194/8A of Eduvadalapalem Village, 17928 Sq.Mts (Ac.4-41 Cents) situated in RS.No.84/2B, 10719 Sq.Mts (Ac.2-65 Cents) situated in RS.No.88/1B, 8215 Sq.Mts (Ac.2-02 Cents) situated in RS.No.109/2, 607 Sq.Mts (Ac.O-14 Cents) situated in RS.No.108/2F1 of Kannaigudem Village all the villages in Koyyalagudem Mandal, West Godavari District including dispossessing the Petitioners and laying of the Greenfield National Highway NH 365 BG pending disposal of the above writ petition and to pass

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to dismiss the writ petition by vacating the interim orders dated 21-04-2022 in IA 1/2022 in WP. 10280/2022

IA NO: 3 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to vacate the interim orders dated 21-04-2022 passed in IA 1/2022 in WP. 10280/2022 and dismiss the writ petition

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to grant leave to the Petitioners to file the Additional Reply Affidavit in the above WP No.10280 of 2022 and pass

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to permit the Petitioners to bring on record the Objections dated 22/07/2021 filed at

Public Hearing dated 22/07/2021 at Jangaredygudem as additional documents in the above Writ Petition No. 10280 of 2022 and pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the Petitioners to amend the Affidavit and the prayer in the Writ Petition as under; "14. It is, therefore, prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Direction, more particularly one in the Writ of Mandamus, to declare the Notifications, Award Enquiry Notices, Award, Award Notices issued under the provisions of the National Highways Act, 1956 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 vide: (i) SO.No. 1388 (E) published in Gazette No. 1240 dated 27.04.2020 and under Section 3A of the National Highways Act, 1956 published in Hans India, Andhra Jyothi daily newspapers dated 08.05.2020, (ii) S.O.No.4189(E), MORE & LI dated 23.11.2020 published in Gazette No.3687 under Section 3D of the NH Act, (in) Public Notice Rc. No. 1/2020 CALA&JCNHAI365BG, dated 08.08.2020 published in Praja Sakthi and Hans India newspapers on 20.01.2021 under Section 3(G)(3) of the NH Act; (iv) Award Enquiry Notices issued vide R.O.C.No.1 NH-365 BG 2020 dated 20.01.2021 and 23.01.2021 (v) Award.Nos.6 2021 NH-365 BG, 7 2021 NH-365 BG, dated 15.03.2021 of the Sixth Respondent under Section 23 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act read with Section 3G of the NH Act; (vi) Award Notices issued vide Roc.No.OI 2020 NH-365 BG dated 17.07.2021 under Section 3H(2) of the NH Act, 1956 and Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act: issued for the alleged public purpose for building (widening two-lane with paved shoulder four laning etc.), maintenance, management and operation (f Khammam - Devarapalli Greenfield National Highway (yet to be Assigned) in the stretch of land from Km 148.285 to Km 220.586 in the district of West Godavari (office of District Collector Kuni) in the state of Andhra Pradesh issued in respect of the Petitioners land ad-measuring 5909 Sep Mis (Ac. 1-46 Cents), 1255 Sq.Mts (Ac.O- 27 Cents) situated in RS Nos 37 2, 31 2 of Rajavaram Village, 2833 Sq.Mts (Ac.O- 70 Cents) situated in RS.No.233 1B2, 526 Sq.Mts (Ac.O-12 Cents) situated in RS.No.233 1C2, 40 Sq.Mts (Ac.O-01 Cents) situated in RS.No. 194 4A, 1336 SepMts (Ac.O-33 Cents) situated in RS.No. 194 5A, 648 Sq.Mts (Ac.O-16 Cents) situated in RS.No. 194 6, 1781 Sq.Mts (Ac.O-44 Cents) situated in RS.No. 1943B, 1538 Sq.Mts (Ac.O-38 Cents) situated in RS.No.195 4A, 3278 (Ac.O-81 Cents) situated in RS.No. 195 2B. 122 Sq.Mts (Ac.O-03 Cents) situated in RS.No. 194 7A, 41 Sq.Mts (Ac.O-01 Cents) situated in RS.No. 194 8A of Kdiivalapalem Village, 17928 Sq.Mts (Ac.4-41 Cents) situated in RS.No.84/2B, 10719 Sq.Mts (Ac.2-65

Cents) situated in RS.No.88 IB, 8215 Sq.Mts (Ac.2-02 Cents) .situated in RS.No. 109 2, 607 Sq.Mts (Ac.O-14 Cents) .Stmated in RS.No. 108. 2FI of Kannaigudem Village all of Koyyalagitdem Mandal, West Godavari District as tlllegal, arbitrary, wholly without jurisdiction and violative ofArticles 14, 19, 21 and 300-A of the Constitution and consequently quash the .same and pa.ss .such other order or orders as this Hon'hle Court may deem fit and proper in the circumstances of the ca.se. With the following words and letters: "14. It is, therefore, prayed that this Hon'hle Court may be pleased to issue a rit, Order or Direction, more paritcnlarly one in the Writ of Mandamus, to declare the Notiifcations, Award Enquiyy Notices, Award, Award Notices, Environment Clearance (impact assessment) issued under the provisions of the National Highways Act, 1956 and the Right to Fair Compensation and Transparency in Land Acc}ui,sition, Rehabilitation and Resettlement Act, 2013, EIA Notification, 2006 vide: (i) SO.No. 1388 (E) puhli.shed in Gazette No. 1240 dated 27.04.2020 and under Section 3A of the National Highways Act, 1956 published in Hans India, Andhra Jyothi daily newspapers dated 08.05.2020, (ii) S.O.No.4189(E), MORE N H dated 23.11.2020 published in Gazette No.3687 under Section 3D of the NH Act, (Hi) Public Notice Rc. No. 1202020 CALA&.IC NHAT365BG. dated 08. 08.2020 published in Praja Saklhi and Hans India newspapers on 20.01.2021 under Section 3(G)(3) of the NH Act; (iv) Award Enquiry Notices is.sued vide R.O.C.No.I NH-365 BG 2020 dated 20.01.2021 and 23.01.2021 (v) Award.Nos.6:2021/NH-365 BG, 7 2021 NH-365 BG, dated 15.03. 2021 of the Sixth Re.spondent under Section 23 of the RFCTLRR Act R w Section 3G of the NH Act; (vi) Award Notices is.sued vide Roc.No.OI 2020 NH-365 BG dated 17.07. 2021 under Section 3H(2) of the NH Act, 1956 and Section 26 of the RFCTLRR Act; (vit) Proceedings in File No. 10-5T2020-1A.III, dated 23.12.2021; issued for the alleged public purpose for building (widening two-lane with paved shoulder four laning etc.), maintenance, management and operation of Khammam - Devarapalli Greenfield National Highway (yet to beAssigned) in the stretch of land from Km 148.285 to Km 220.586 in the district of West Godavari (ofifce of District Collector Eluni) in the state of Andhra Pradesh issued in respect of the Petitioners land ad-measuring 5909 Sq. Mis (Ac. 1-46 Cents), 1255 Sq.Mts (Ac.O- 27 Cents) situated in RS Nos 3.72, 31 2 of Rajavaram Village, 2833 Sq.Mts (Ac.O- 70 Cents) .situated in RS.No.233 1B2, 526 Sq.Mts (Ac.O-12 Cents) situated in RS.No.233 1C2, 40 Sq.Mts (Ac.0-01 Cent) situated in RS.No. 194 4A, 1336 Sq.Mts (Ac.0-33 Cents) situated in RS.No. 194/5A, 648 Sq.Mts (Ac.0-16 Cents) situated in RS.No. 194 6, 1781 Sq.Mts (Ac.0-44 Cents) .situated in RS.No. 194 3B, 1538 Sq.Mts (Ac.0-38 Cents) situated in RS.No. 195 4A, 3278 (Ac.0-81 Cents) situated in RS.No. 195 2B, 122 Sq.Mts (Ac.0-03 Cents) situated in RS.No. 194 7A, 41 Sq.Mts Ac. 0-0J Cent.s) situated in RS.No. 194 8A of Ediiadalapalem Village,

17928 Scj.Mts (Ac.4-41 Cents) situated in RS.No.84 28, 10719 Sq.Mts (Ac.2-65 Cents) situated in RS.No.88 18, 8215 Sq.Mts .(Ac.2-02 Cent.s) .situated in RS.No. 109 2, 607 Sq.Mts (Ac.0-14 Cents) situated in RS.No. 108 2FI of Kannaigudem Ullage all of Koyyalagudem Mandal, West Godavari District as illegal, arbitrary, wholly without jurisdiction and violative of Articles 14, 19, 21 and 300-A of the ('onstitution and con.sequently quash the .same and pa.ss such other order or orders as this Hon'hle Court may deem fit and proper in the circumstances of the case. and pass

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to permit the Petitioners to bring on record the photographs and market value certificate annexed to this IA on record as additional material in the above Writ Petition and pass

Counsel for the Petitioner(S):

1.M R K CHAKRAVARTHY

Counsel for the Respondent(S):

1.CHAUDHARY AND CHAUDHARY ADVOCATES AND SOLICITORS
LAW FIRM

2.GP FOR LAND ACQUISITION

3.

The Court made the following ORDER:

The land owners, whose lands have come under acquisition for construction of a four-lane access-controlled Greenfield Highway by National Highway Authority of India (NHAI) from Khammam-Devarapalli are before this Court.

2. Heard the learned Counsel for the petitioners and the learned Counsel appearing for the respondents.

3. The present petition is filed challenging the Notifications, Award Enquiry Notices, Award, Award Notices issued under the National Highways Act, 1956, EIA Notification, 2006 viz., (i) SO.No. 1388 (E) published in Gazette No.1240 dated 27.04.2020 and under section 3A of the NH Act, 1956 published in Hans India, Andhra Jyothi daily News Papers dated 08.05.2020 (ii) S.O.No.4189(E), MORT & H dated 23.11.2020 published in Gazette No.3687 under section 3D of the NH Act, (iii) Public Notice Rc.No.1/2020/CALA&JC/NHAI/365BG, dated 08.08.2020 under section 3(G)(3) of the NH Act; (iv) Award Enquiry Notices vide ROC No.1/NH-365 BG/2020 dated 20.01.2020 and 23.01.2021; (v) Award Nos.6/2021/NH-365BG, 7/2021/NH-365 BG, dated 15.03.2021 of the 6th Respondent under section 23 of RFCTLRR Act r/w section 3G of the NH Act; (vi) Award Notices issued vide Roc.No.01/2020/NH-365 BG dated 17.07.2021 under section 3H(2) of the NH Act, 1956 and section 26 of RFCTLRR Act; (vii) Proceedings in File No.10-51/2020-IA.III, dated 23.12.2021.

4. The learned counsel for the Petitioners submitted that the Petitioners are the owners of the lands in Rajavaram, Iduvadalapalem, Kannayagudem Villages, Koyyalagudem Mandal of West Godavari District, Andhra Pradesh.

The said revenue lands were sought to be acquired for public purpose of constructing Khammam-Devarapalli four-lane access-controlled Greenfield Highway by Respondents (NHAI).

It is the case of the Petitioners that they have paid conversion tax as regulated under Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006 (APLA Act) and that the same has been intimated to Revenue Divisional Officer. The Petitioners contend that the land stood converted on payment of conversion tax by the date of Sec.3A Notification by virtue of Section 3 of APLA Act. However, W.P.No.1377 of 2019 pertaining to conversion of the said lands to non-agricultural lands is pending before this Hon'ble Court.

It is also contented by the Petitioners that initially in the year 2018, the Respondents have issued Notification and Awards similar to the impugned Proceedings and on receiving objections dated 05.11.2018 from the Petitioners that the alleged road is not a National Highway published under NH Act and therefore the provisions of NH Act cannot be invoked, the Respondent authorities dropped the acquisition proceedings and that after a lapse of two years, fresh notifications have been issued which are impugned in the case on hand.

It is vehemently contended by the learned counsel for Petitioners that there is no declaration by the Union of India (1st Respondent) in the Gazette that the proposed road is a National Highway as mandated under Section 2(2) of the NH Act and therefore the NH Act does not apply and that the entire impugned Proceedings of acquisition, Notification and Awards are ultra vires liable to be set aside. It is also argued by the learned counsel for Petitioners that it is nothing but colourable exercise of power just to escape the rigors of RFCTLRR Act.

The learned counsel for Petitioners further stated that the Petitioners have raised objections under Section 3C dated 15.05.2020 and that they have also filed claim statements in the office of the Competent Authority, Land Acquisition (6th Respondent) dated 27.01.2021 and 28.01.2021 under Section 21(2) of RFCTLRR Act and that the Land Acquisition Officer passed the Award without conducting any enquiry.

It was also submitted by the learned counsel for Petitioners that it was surprising that the copy of the Award No.7/2021/NH 365BG dt:__.03.3021 was not furnished to the Petitioners and that they had to file the present petition without annexing the copy of the same. It is also the case of the Petitioners that notice dated 20.01.2021 under Section 3G(3) of the NH Act is not in conformity with the RFCTLRR Act. It is also their case that the

Respondents have not taken into consideration the prevailing market values despite objection being raised and that the lands are non-agricultural lands and the value should have been determined basing on the prevailing market value of non-agricultural lands as the lands have been converted to non-agricultural lands prior to the impugned Notification issued vide Gazette No.1240 dated 27.04.2020 in S.O.No.1388(E) dated 27.04.2020 under Section 3A(1) of the NH Act, 1956.

5. The learned counsel for the petitioners in support of his contentions relied upon the following decisions:

i) ***Project Director, Project Implementation Unit v. P.V. Krishnamoorthy & Ors***¹.

ii) ***J&K Housing Board and another v. Kunwar Sanjay Krishan Kaul and others***².

--- To reiterate that statutory provision provides a particular manner for doing a particular act, the said thing or act must be done in the manner prescribed.

iii) ***Bhimavarapu Giridhar Kumar Reddy v. Union Government***³.

¹ (2021) 3 SCC 572

² (2011) 10 SCC 714

³ (2012) SCC Online AP 148

iv) ***Competent Authority v. Barangore Jute Factory and others***⁴.

--- Held in the absence of plan, it is difficult to raise objections under section 3(c)(1).

v) ***Hindustan Petroleum v. Darius Shapur Chennai and others***⁵.

--- Section 3(c)(2) casts a duty on the competent authority to consider the objections after hearing the objections and making further enquiry shall allow or disallow the objections and competent authority must give reasons that the objections raised by the petitioners were dealt by assigning reasons. But the Competent authority has not applied its mind and the objections were not dealt with objectively by the competent authority.

6. On the other hand, the learned Senior Counsel Mr. Chidambaram for the Respondents submitted that the National Highways Authority of India (NHAI) has taken up construction of four lane access controlled Green Field Highway Project from Khammam-Devarapalli section measuring 162.126 km in length declared as NH 365BG (erstwhile 365-BB) and the National Highway Authority of India has decided to construct the Khammam-Devarapalli connecting Telangana & Andhra Pradesh states under Inter Corridor route under Bharathmala Pariyojana as per the directions of the

⁴ (2005) 13 SCC 477

⁵ 2005 (7) SCC 627

Hon'ble Prime Minister during Pragathi Meeting held on 23.05.2018 and the minutes are as follows:

- (i) Ministry of Road Transport & Highways should complete survey as per revised alignment and accordingly, submit the revised Land Acquisition proposals to Government of Telangana by September, 2018.
- (ii) Ministry of Road Transport & Highways in co-ordination with State Government should resolve all the issues hindering the project and start the construction work.

The learned Senior Counsel for the Respondents submitted that the said project has been taken up as a part of green field project as it reduced the distance between Rajahmundry and Hyderabad by 56km and between Khammam to Devarapalli by 24 km and creates substantial gains in terms of vehicle operating cost, reduced travel time and that it is set to boost economic development of the adjoining areas and that it is considered as "high priority" as it improves connectivity between the two states of Telangana and Andhra Pradesh and also aims to decongest NH 65 and NH 16. The counsel for the Respondents also stated that in pursuance of the same the DPR work was transferred to NHAI via a tripartite agreement and that the subject work is included in PRAGATI review and the alignment was reviewed by the Secretary, Ministry of Road Transport and Highways in 3rd

week of May, 2018 and that the green field alignment from Khammam to Devarapalli was given a go ahead by the Hon'ble Prime Minister in the meeting held on 23.05.2018.

The learned Senior counsel for the Respondents submitted that the Joint Collector (A&W) Eluru, was designated as Competent Authority for Land Acquisition for this project vide Orders 3672(E), dated 25.07.2018. Ministry of Road Transport and Highways Department has issued Notification in S.O.No. 1388(E) dt:27.04.2020 under Section 3A of NH Act, 1956 for acquisition of land for formation of NH-365 BG. It is argued by the learned counsel for the Respondents that the Competent Authority Land Acquisition ('CALA' for short) had provided an opportunity of hearing to the land owners and that infact, the Petitioners attended the enquiry on 04.09.2020 and gave a joint statement before the authority. Subsequent to the enquiry, the CALA disallowed the objection vide order dt: 07.09.2020 under section 3C as the lands are being acquired for public purpose. The learned counsel also refuted the material allegation made by the Petitioners regarding Section 3C objections enquiry. It is pertinent to note that the Petitioners and 11 others have filed Section 3C objections on a Section 3A Notification dt: 27.04.2020.

It is also the case of the Respondents that after verification of an extent of 73,366 sq.mts in Kannaigudem village of Koyyalagudem Mandal,

Notification u/s 3D(1) and 3D(2) of NH Act has been proposed for approval of length through the Project Director, NHAI, PIU, Rajahmundry and the Government of India in exercise of its powers conferred under the said section vide its Notification S.O.4189(E) dated 23.11.2020 declared that the lands specified in the schedule acquired for the purpose and in pursuance of Section 3D(2) shall vest absolutely with the Central Government free from all encumbrances. Notification with respect to the same has been published in E.O. issue Part II Section 3 of sub-section (ii) of the Gazette of India Issue No. 3687, dt: 23.11.2020.

The learned Senior Counsel for the Respondents argued that Section 3G Notification was published in one Telugu daily News paper and two English News papers on 20.01.2021 appraising the land owners/interested persons to attend award enquiry along with title documents in support of their claims on 27.01.2021. Subsequently the competent authority conducted the said enquiry and passed an Award in respect of the lands as per the provisions of the NH Act, 1956 and section 26 of RFCTLRR Act, 2013.

The learned Senior Counsel for the Respondents refuted the contention of the Petitioners that the initial Notification issued vide S.O. No.5130(E), dt: 28.09.2018 was for the entire stretch covered under 31 villages including that of the Petitioners and that the said Notification was

issued for 70 m width and that out of 31 villages survey was conducted in 24 villages and Section 3D Notification was also published vide S.O. No.156(E), dt: 09.01.2019 Gazette No.142, dt: 10.01.2019. Since the Petitioners did not extend their support for survey the same was lapsed and fresh notification had to be published under Section 3A for an extent of 60m width vide S.O.No.1388(E), dt: 27.04.2020 Gazette Notification No.1240(E), dt: 27.04.2020 published in Telugu and English Dailies dt: 08.05.2020 calling for objections under Section 3C. The learned Senior Counsel submitted that as per Section 3G(3) of NH Act, 1956 public notice has been issued on 20.01.2021 inviting the landowners /interested persons to file their claims for the land proposed for acquisition to establish their title over the land before the competent authority on 27.01.2021 and the said notice was issued in Telugu and English News Papers on 20.01.2021.

It is also the case of the Respondents that the compensation was determined in terms of RFCTLARR Act, 2013 and coming to the question of multiplication factor the Ministry of Road Transport and Highways Dept., Government of India in its Circular No.NH 11011/30-2015-LA dt: 08.08.2016 clarified that the multiplication factor of 2 which is used in calculation of determining compensation is notified vide Gazette Notification S.O.425(E) dt: 09.02.2016 is applicable to the land acquired under RFCTLARR and in the

case of appropriate government defined under Section 3(e)(ii) and 3(e)(v) of the RFCTLARR Act, 2013 with effect from 01.01.2015. As per the orders of the NHA authorities and Government of Andhra Pradesh multiplication factor was calculated at 1.25 and the award was passed accordingly.

The learned Senior Counsel for the Respondents argued that the contention of the Petitioners that there is no notification of declaration under Section 2(2) of NH Act is incorrect and baseless as the Gazette has been published vide S.O.2163E dt: 30.06.2020 declaring the New National Highway number as NH-365BG for Greenfield. It is also stated that the sale transactions of previous three years to the date of issuance of Section 3A notification were taken into consideration and the market value was determined in accordance with Section 26 of RFCTLAAR Act, 2013. It is also vehemently submitted by the learned Senior Counsel for the Respondent that at every stage notices were issued and due procedure was followed from time to time.

The learned Senior Counsel for the Respondents further argued that the Petitioners can file an application before the Arbitrator cum District Collector, appointed by the Central Government as per Section 3(G)(5) of NH Act, 1956, if the compensation award is felt to be inadequate. It is also submitted that the project work is entrusted to Rajamahendravaram

Greenfield Pvt. Ltd. vide Letter of Award dt: 15.09.2021 and that the Agreement was concluded on 27.01.2021. It is also argued that the project is a time bound project and any delay would cause an irreparable loss to the Authority in the form of penalties, escalation of project cost and ultimately to the public interest. It is also argued that the writ petition was filed with mala fide intention to stall the ongoing road widening/construction project which is undertaken in the interest of public at large and for overall growth and strengthening of economy of our country.

7. The learned Senior Counsel, in support of his contentions relied upon the following decisions:

i) ***Landowners of Village Suthsoo and others v. State of J&K and others***⁶, wherein it was observed that for issuance of notification under section 3A declaration that a particular stretch of road as a National Highway is not a prerequisite.

ii) ***Pahwa Plastics Pvt. Ltd. and another v. Dastak NGO and other***⁷.

iii) ***Electrosheets Ltd. v. Union of India and another***⁸ and

⁶ 2023 SCC Online J&K 247

⁷ (2022) SCC Online SC 362

⁸ 2021 SCC Online SC 1247

iv) ***Project Director, Project Implementation Unit v. P.V. Krishnamoorthy & Ors***, wherein it was observed that environmental clearance is required before the actual commencement of the work but not necessary at the time of notification.

8. Having heard the counsels for both the Petitioners and the Respondents at length and having considered the material on record, this Court is of the view that the issues raised by the Petitioners can be broadly classified into two. The primary question that needs to be answered is whether the project in the impugned proceedings is a national highway project or not and whether the provisions under sections 3A to I would be applicable.

The second category of questions pertain to procedure followed in awarding of compensation, non-consideration of material produced, lack of opportunity of being heard and multiplication factor.

9. In so far as the first question is concerned, this Court is of the view that, the project Bharathmala Pariyojana has been conceived with an intention to optimize the efficiency of freight and passenger movement across the country by bridging critical infrastructural gaps through effective interventions like development of Inter Corridors, green field highways etc. As part of this initiative, the government has taken up this green field project to

reduce the distance between Rajahmundry and Hyderabad by 56 km and between Khammam to Devarapalli by 24 km and create substantial gains in terms of vehicle operating cost, reduced travel time and boost the economic development of the adjoining areas.

10. National Highways Authority has been constituted under the National Highways Authority of India Act, 1956 with an object to develop, maintain and manage the National Highways in the country. As has been reiterated by the law courts, the NH Act, 1956 is a complete code in itself. It is trite to say that the impediment should not be created in the matter of National Highways which provides the much-needed transportation infrastructure.

11. Section 2 of the National Highways Act, 1956 reads as under:

*2. Declaration of certain highways to be national highways.—(1) Each of the highways specified in the Schedule²*** is hereby declared to be a national highway.*

(2) The Central Government may, by notification in the Official Gazette, declare any other highway to be a national highway and on the publication of such notification such highway shall be deemed to be specified in the Schedule.

(3) The Central Government may, by like notification, omit any highway from the Schedule and on the publication of such notification, the highway so omitted shall cease to be a national highway.

(emphasis supplied)

12. Section 3A of the National Highways Act, 1956 inserted by the amendment of 1997, empowers the Central Government to declare its

intention to acquire “any land”. The vital condition for exercise of such power conferred on the Central Government is that it should be satisfied that such land is required for public purpose of building a national highway or a part thereof. Section 3B of the Act empowers the person authorized by the central government to enter upon the notified lands for the limited purpose of survey, etc. to ascertain its suitability for acquisition for the stated purpose. Section 3C gives an opportunity to any person interested in the land to raise objections if any on the notified land. The final declaration is issued under section 3D after hearing all persons who raised objections. Subsequent to such declaration /notification under section 3D the land vests with the central government free from all encumbrances and possession is taken under section 3E upon depositing the compensation amount in the manner prescribed as per section 3H and as determined under section 3G.

13. The Hon’ble Apex Court in ***Project Director, Project Implementation Unit v. P.V. Krishnamoorthy & Ors.*** opined that for issuance of notification under section 3A, declaration/notification of a particular stretch of road as national highway is not a condition precedent. Relying on the said decision by the Hon’ble Apex Court, the Division Bench of Hon’ble High Court of Jammu & Kashmir and Ladakh in ***Landowners of Village Suthsoo & Ors. v. State of J&K and Ors.*** held as follows:

23. It is, thus, evident that, for issuance of notification under section 3A, declaration/notification of a particular stretch of road as national highway is not a condition precedent. The Government is competent and is empowered under section 3A to issue notification in the official gazette declaring its intention to acquire land for the building of a national highway. It is common knowledge and is well spelt out by the provisions of National Highways Act, that what is notified as a national highway under section 2 is an existing highway. Section 2 deals with declaring certain existing highways to be national highways. Thus, from a reading of section 3A along with section 2, it would become abundantly clear that for issuing a notification under section 3A by the central government, advance declaration of a highway, yet to be constructed, as national highway is not sine qua non. Such declaration presupposes existence of a highway.”

14. It is, therefore, evident that for issuance of notification under section 3A, notification under section 2(2) is not a condition precedent. The government is empowered under section 3A to issue a Gazette notification declaring its intention to acquire land for building a national highway. It is reiterated that what is declared as national highway under section 2(2) is an existing highway. Juxtaposing section 3A and section 2 of the NH Act, 1956 it is amply clear that to issue a notification under section 3A prior declaration under section 2(2) is not an essential condition. Therefore, the contention of the Petitioners that this is not a national highway and that it

would not come under the purview of National Highways Act holds no water.

15. The Hon'ble Apex Court in ***Ramniklal N. Bhutta & Anr. v. State of Maharashtra***⁹ observed as follows:

Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with China economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And

⁹ (1997)1SCC134

in the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-à-vis the private interest while exercising the power under Article 226 — indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings.

(emphasis supplied)

16. In another case of ***Union of India v. Kushala Shetty & Ors.***¹⁰ the Hon'ble Supreme Court held as under:

“Here, it is apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and maintenance of National Highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises

¹⁰ (2011) 12 SCC 69

of persons having vast knowledge and expertise in the field of highway development and maintenance. NHAI prepares and implements projects relating to development and maintenance of National Highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would sub serve the larger public interest. In such matters, the scope of judicial review is very limited.

(emphasis supplied)

17. The Division Bench of the Hon'ble High Court of Punjab & Haryana ***in Manjit Singh & Ors v. Union of India & Ors.***¹¹ held that, "*this Court is also sanguine of the fact that where larger interest of public is involved, sanctity of date of completion of the project for construction and relevance or importance cannot be ignored on account of few numbered litigants, who are contesting for the sake of determination of appropriate compensation. The aspect of public interest over private rights assumes significance.*"

18. From the above discussion, it is abundantly clear that the writ courts have limited scope of judicial review in matters involving technical expertise and the law courts have time and again reiterated the fact that public interest

¹¹ MANU/PH/0150/2022

assumes greater significance over private interest and that the Courts must consider this while exercising discretionary powers under the writ jurisdiction.

19. In the light of the above discussion, this court is of the view that nobody can dispute that the project is of national importance involving huge public money and stalling the project any further would not only be against public interest but also against the interest of the nation. It is to be borne in mind that “national interest > public interest > private / individual interest”. Thus, considering all the facts and circumstances and considering various case laws as mentioned supra, I am of the view that the impugned proceedings under sec 3A does not suffer from any infirmity or illegality and consequently the declaration under section 3D is also validly made. It is therefore observed that no useful purpose would be served by quashing the impugned proceedings, hence, the prayer of the Petitioners to quash the same is rejected.

20. Having said this, the Petitioners are at liberty to raise the grievances pertaining to non-consideration of material by the Competent Authority; quantum of compensation and the other allied issues like multiplication factor before the appropriate alternate authority as provided under Section 3G(5) of the National Highways Act, 1956.

21. The Respondent authorities are expected to complete the project as expeditiously as possible without prejudice to the rights of the Petitioners to claim suitable compensation before the appropriate authority.

22. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

The interim order, if any, deemed to have been vacated. Pending interlocutory applications, if any, shall stand disposed of.

JUSTICE B. KRISHNA MOHAN

20-06-2025

Note : LR to be marked

B/O

PND