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APHC010409892013



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

[3327]

FRIDAY, THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

**PRESENT
THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY**

WRIT PETITION NO: 35960/2013

Between:

V.veera Swamy, Son Of Venkateswarlu, and **...PETITIONER(S)**
Others

AND

The Government Of India and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1.V PADMANABHA RAO

Counsel for the Respondent(S):

1.GP FOR LAND ACQUISITION

2.

3.S S VARMA (SC FOR NHAI)

The Court made the following:

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

**WRIT PETITION Nos.35960 of 2013, 35961 of 2013,
35962 of 2013, 35963 of 2013, 35964 of 2013, 36034 of 2013,
36035 of 2013, 36036 of 2013, 36037 of 2013, 36038 of 2013,
36039 of 2013, 36040 of 2013, 36041 of 2013, 36042 of 2013,
36043 of 2013, 36044 of 2013, 36045 of 2013, 36046 of 2013,
36047 of 2013, 36048 of 2013, 36049 of 2013, 36050 of 2013,
36051 of 2013, 36052 of 2013, 36054 of 2013, 36055 of 2013,
36056 of 2013, 36057 of 2013, 36058 of 2013 and 1168 of 2014**

COMMON ORDER :

Since the point involved in all the Writ Petitions is one and the same, at request of all the counsel, all the Writ Petitions are being disposed of, by way of this Common Order.

2. These Writ Petitions are filed seeking to declare the action of the respondents in not attaching the plan to the Notifications dated 30.11.2009, 27.07.2010 and 20.01.2012 and Publications dated 14.12.2009, 21.08.2010 and 07.03.2012 issued under Section 3A (1) & (2) of the National Highways Act, 1956 (for brevity 'the Act, 1956'), in The Hindu daily newspaper, and in not following the procedure contemplated under Sections 3A, 3C, 3D, 3E, 3G (3), (4), (5) and (7) (a) and 3H of the Act, 1956 and the Amended Act 16 of 1997, as illegal and arbitrary, and consequently, set-aside the Publications, dated 14.12.2009, 21.08.2010 and

07.03.2012 issued under Section 3A (1) and (2) of the Act, 1956 and set-aside the Award No.43 2011 dated 29.05.2013 passed by 5th respondent.

3. Case of the Writ Petitioners is as follows.

(a) *Vide* Notification dated 30.11.2009, the Ministry of Road Transport and Highways, New Delhi, in exercise of powers conferred by sub-section (1) of Section 3A of the Act, 1956, for building (widening/six laning, etc) maintenance, management and operation of National Highways No.5, on the stretch of land from KM 1182.802 to KM 1307.900 (Chilakaluripet-Rudrakota Section), Prakasam District, expressed its intention to acquire the land falling within the proposed right of way of National Highway No.5 from KM 1182.802 to KM 1307.900 (Chilakaluripet-Rudrakota Section) in Prakasam District. Accordingly, a Gazette Notification under Section 3A (1) of the Act, 1956 was issued on 30.11.2009 and it was got published in The Hindu daily newspaper on 14.12.2009, declaring its intention to acquire the land for the said purpose; that as some portions of the land required for the said acquisition, were not mentioned in the said Publication, the other Publications dated 27.07.2010 and 20.01.2012 were issued and the same were published in The Hindu daily newspaper on 21.08.2010 and 07.03.2012, respectively.

(b) Subsequently, *vide* Notice dated 11.10.2013 under Section 3H (2) of the National Highway Laws (Amendment) Act, 1997, 5th respondent directed the Writ Petitioners to appear before them along with proof of title over the acquired lands, to receive the compensation amount. *Vide* Award No.43/2011/N.H.5, dated 29.05.2013, 5th respondent passed Award calculating the compensation for the extent acquired. The details are as under:

Sl. No.	Writ Petition No.	Survey No.	Extent covered by acquisition in Square Meters	Net Compensation awarded (Rupees)
1.	W.P.No.36048 of 2013 (Petitioners 3 in number)	580/1 (Petitioner No.1)	20.24	2,25,163-00
		581/D (Petitioner No.1)	20.24	26,147-00
		600/A/1 (Petitioner No.1)	20.24	2,08,431-00
		580/1 (Petitioner No.2)	20.24	2,10,208-00
		581/D (Petitioner No.2)	20.24	26,147-00
		601/A/12/A (Petitioner No.3)	16.87	21,794-00
2.	W.P.No.36046 of 2013	549/C/2	70.84	14,71,271-00
3.	W.P.No.36047 of 2013	578/A/A1	40.48	4,39,119-00
4.	W.P.No.36039 of 2013 (Petitioners 4 in number)	Sy.No.578/A/A1 (Petitioner No.1)	40.48	7,93,049-00
		Sy.No.582/A (Petitioner No.1)	20.24	26,147-00
		582/A (Petitioner No.2)	10.12	13,074-00
		578/A/A1 (Petitioner No.2)	40.48	8,32,198-00
		578/A/A1 (Petitioner No.3)	40.48	8,12,744-00
		578/A/A1 (Petitioner No.4)	20.24	5,68,700-00
		582/A (Petitioner No.4)	20.24	26,147-00

5.	W.P.No.36040 of 2013	580/1	141.68	23,45,746-00
		581/D	20.24	26,147-00
6.	W.P.No.36041 of 2013	547/2A (Petitioner No.1)	20.24	26,147-00
		608/A/C (Petitioner No.1)	40.48	52,294-00
		578/A/A1 (Petitioner No.1)	40.48	8,85,418-00
		584/A/1 (Petitioner No.2)	29.40	4,62,858-00
7.	W.P.No.36042 of 2013	578/A/A1	40.48	5,32,437-00
8.	W.P.No.36043 of 2013	582/C/2B	60.72	4,30,587-00
		578/A/A1	40.48	2,69,841-00
9.	W.P.No.36044 of 2013	578/A/A1	5.06	92,741-00
10.	W.P.No.36045 of 2013	584/A/1 (Petitioner No.1)	20.24	26,147-00
		584/A/1 (Petitioner No.2)	30.36	23,44,898-00
11.	W.P.No.36051 of 2013	608/A/C	40.48	5,58,261-00
12.	W.P.No.36052 of 2013 (Petitioners 2 in number)	578/A/A1 (Petitioner No.1)	40.48	2,51,207-00
		547/A/1A (Petitioner No.1)	445.28	5,75,235-00
		582/C/2B (Petitioner No.1)	202.40	19,20,996-00
		582/C/2B (Petitioner No.2)	40.48	8,77,289-00
		578/A/A1 (Petitioner No.2)	40.48	2,69,841-00
13.	W.P.No.36054 of 2013	553/C/2	20.24	2,99,830-00
14.	W.P.No.36055 of 2013 (Petitioners 2 in number)	601/A/12/A (Petitioner No.1)	50.60	7,68,634-00
		601/A/12/A (Petitioner No.2)	50.60	7,68,634-00
15.	W.P.No.36056 of 2013	580/1	40.48	4,71,701-00
		581/D	50.60	65,368-00
16.	W.P.No.36057 of 2013	578/A/A1	40.48	5,24,675-00
		582/A	10.12	13,074-00
17.	W.P.No.36058 of 2013	584/C/B2	36.06	1,61,572-00
18.	W.P.No.36049 of 2013	584/A/1	50.60	8,17,777-00
		578/A/A1	80.96	8,18,843-00
		547/A/2A	40.48	52,294-00

		600/A/1	20.24	1,34,773-00
		582/A	10.12	13,074-00
19.	W.P.No.36050 of 2013	581/A/2	20.24	61,423-00
20.	W.P.No.36038 of 2013 (Petitioners 2 in number)	584/A/1 (Petitioner No.1)	35.42	9,61,075-00
		584/C/B2 (Petitioner No.2)	101.20	7,96,985-00
21.	W.P.No.35961 of 2013	600/A/1	25.30	32,684-00
22.	W.P.No.35962 of 2013	582/C/2B	40.48	3,39,847-00
23.	W.P.No.35963 of 2013 (Petitioners 2 in number)	600/A/1 (Petitioner No.1)	20.24	26,147-00
		584/A/1	60.72	8,42,226-00
24.	W.P.No.35964 of 2013	578/A/A1	20.24	8,92,205-00
		581/C/1	121.23	14,17,743-00
		582/A	30.36	39,221-00
25.	W.P.No.36034 of 2013	578/A/A1	40.48	6,34,482-00
26.	W.P.No.36035 of 2013	578/A/A1	20.24	8,54,894-00
		608/A/C	40.48	52,294-00
		603/A/2	121.44	2,16,910-00
		582/A	30.36	39,221-00
27.	W.P.No.36036 of 2013	584/C/B2	20.24	5,51,885-00
28.	W.P.No.36037 of 2013	581/C/1	222.64	25,86,473-00
29.	W.P.No.35960 of 2013 (Petitioners 3 in number)	580/1 (Petitioner No.1)	20.24	6,13,625-00
		584/A/1 (Petitioner No.1)	40.48	52,294-00
		578/A/A1 (Petitioner No.2)	5.06	94,440-00
		581/A/2 (Petitioner No.3)	40.40	52,191-00
30.	W.P.No.1168 of 2014 (Petitioners 4 in number)	549/C/2 (Petitioner No.1)	40.48	6,06,457-00
		547/A/2A (Petitioner No.2)	20.24	1,16,127-00
		578/A/A1 (Petitioner No.3)	20.24	8,56,791-00
		581/C/1 (Petitioner No.3)	20.24	26,147-00
		582/A (Petitioner No.3)	20.24	26,147-00
		578/A/A1 (Petitioner No.4)	10.12	3,81,109-00

(c) It is stated that the respondents have not followed the procedure as contemplated under the provisions of Sections 3A, 3C, 3D, 3E, 3G and 3H of the Act, 1956. Further, the Notifications dated 30.11.2009, 27.07.2010 and 20.01.2012 and the Publications dated 14.12.2009, 21.08.2010 and 07.03.2012 are not in accordance with the Sections 3A (1) and (2) of the Act, 1956 and Sections 3C (1), 3G of the Act, 1956, and the notices under Sections 3E (1) and 3H (2) of the Act, 1956 are without any plan attached to the Notifications, due to which, the right to file objections under Section 3C (1) of the Act, 1956 was taken away.

(d) It is further stated that the market value to be taken for the purpose of computation of compensation is from the date of publication of the Notification under Section 3A of the Act, 1956, but the respondents considered the market value from the year 2007 onwards but not from the date of publication, and such action is illegal, arbitrary and unjust. The present market value of the acquired land is more than the market value per square yard and that the respondents did not furnish the Order under Section 3G of the Act, 1956 for approaching the Arbitrator under Section 3G (5) of the Act, 1956. Hence, these Writ Petitions.

4. A counter affidavit, deposited by the Project Director, NHAI, PIU, Nellore has been filed on behalf of respondents 3 and 4, and a separate counter affidavit has been filed by respondent No.5-Competent Authority, Land Acquisition, National Highway-5 & Special Collector, P.S.Veligonda Project, Ongole. In the said counter affidavits, the authorities denied the averments in the respective writ affidavits and contended *inter alia* as follows.

(a) The Project Director, NHAI, PIU, Nellore sent requisition for acquisition of land to an extent of 19501.24 square meters patta land and 1983.52 square meters of Government land, situated in Martur village of Martur Mandal for widening of National Highway-5 from 4 lane to 6 lane. The National Highways Authority of India issued Notification under Section 3A (1) of the Act, 1956 for acquisition of the land and published the same in Gazette of India vide S.O.No.3061(E), dated 30.11.2009 and the same was published in The Hindu Daily newspaper in English and Andhra Jyothi daily newspaper in Telugu, on 14.12.2009. After conducting detailed survey and as per the enjoyment particulars furnished by the Tahsildar, Martur, the NHAI authorities published Notification under Section 3D (1) of the Act, 1956 in the Gazette of India in S.O.No.1826(E), dated 27.07.2010, Public Notice under Section 3G (3) of the Act, 1956 and the same was published in The Hindu Daily

newspaper (English) and in Sakshi Daily newspaper (Telugu) dated 21.11.2011. As the entire extent proposed for acquisition as per Sub-Divisional record was not published in Section 3A Notification dated 30.11.2009, the NHAI published separate Section 3A Notification for the missing extents *vide* S.O.No.1825(E), dated 27.07.2010 and S.O.No.138(E), dated 20.01.2012, and subsequently Section 3D Notification was also issued *vide* S.O.No.1670(E), dated 20.06.2011 and S.O.No.1889 (E), Dated 17.08.2012.

(b) Respondent No.5 fixed the market value of the land basing on the sales statistics received from the Sub-Registrar Office, Martur pertaining to preceding three (03) years from the date of Publication under Section 3A (1) of the Act, 1956 *i.e.* for the period from 14.12.2006 to 14.12.2009, and taking into consideration of time lag and day-to-day increase in market value, increase at the rate of 9% per year was allowed, and market value was fixed at Rs.37,35,291/- per acre to the lands under acquisition in Martur village. Respondent No.5 also awarded 10% on the land value under Section 3G (2), 30% for other damages as per sub-sections 7(b), 7(c) and 7(d) of Section 3G of the Act, 1956. The valuation of Buildings and Fixtures was done by the R&B Department and as recommended by the R&B Department, and respondent No.5 awarded the compensation by distributing the same to the land

owners. But after receiving the cheques, they filed these Writ Petitions.

(c) The Notification issued by 5th respondent clearly states that any person interested in the said land may, within 21 days from the date of the Notification in the Official Gazette, object to the use of the land for the aforesaid purpose under sub-section (1) of Section 3C of the Act, 1956. The Notification further states that the land plans and other details of the land covered under the Notification are available and can be inspected by the interested persons at the aforesaid office of the Competent Authority. It is stated that the Writ Petitioners have not filed any objection before 5th respondent within the time stipulated under the Act, 1956. It is further stated that the Notification under Section 3G of the Act, 1956 was got published in The Hindu daily newspaper on 22.11.2011, 11.02.2013 and also in vernacular language Telugu, in Sakshi daily Newspaper. The notices issued by 5th respondent under Section 3E and 3H (2) of the Act, 1956 are subsequent to passing of the Award with regard to delivery of possession of the land which was notified for acquisition and intimating them the details of compensation awarded to the land owners and asking them to produce necessary documents, and it does not require description of the land. Respondent No.5, having dealt with Sections 3A, 3B, 3C, 3D and 3G of the Act, 1956, heard

the objections of the land owners, scrutinized the claims, declared the acquisition and determined the amount payable to the land owners towards compensation.

(d) According to Section 3G (7) (a) & (b) of the Act, 1956, the market value of the lands under acquisition has to be fixed by taking into consideration of the market value as on the date of the Publication of Section 3A (1) Notification. Income Tax at the rate of 10% was deducted at source on the compensation of assets /structures on Agriculture land, as per Circular N.H.A.I/13/LA /Policy/2006, dated 04.05.2010, and if the Writ Petitioners are aggrieved by the Award passed by 5th respondent, they have remedy to file a petition under Section 3G (5) of the Act, 1956 before the District Collector, Ongole, who is appointed as Arbitrator by the Central Government to decide the claim petitions. The Writ Petitioners, having received the compensation amount, filed these Writ Petitions by suppressing all the above facts. Hence, it is prayed to dismiss the Writ Petitions.

5. Heard the counsel for the petitioners in all the Writ Petitions, the learned Deputy Solicitor General appearing for Union of India, Sri S.S.Varma, learned Standing Counsel for NHAI appearing for respondents 3 and 4 and the learned Government Pleader for Land Acquisition appearing for respondent No.5.

6. Firstly, it is the contention of the learned counsel for the petitioners that under Section 3A(2) of the Act, 1956, every Notification under Section 3A (1) of the Act shall contain a brief description of the land sought to be acquired, and as per Section 3A (3) of the Act, 1956, the competent authority shall cause substance of the Notification to be published in two local newspapers, one of which will be in a vernacular language, and the purpose of the said publication in newspapers is with a view that the persons in the locality would be aware of the proposed acquisition of the property. The learned counsel submits that in the case on hand, the impugned Notifications issued under Section 3A (1) of the Act, 1956 do not contain the description of the land, and that no plan is attached to the said publications, and in view of the same, the very purpose of publications is lost and the petitioners lost right to file objections as contemplated under Section 3C (1) of the Act.

Secondly, it is the contention of the learned counsel for the petitioners that the Notifications issued under Section 3G of the Act, 1956 do not contain details and description of the land and the Award No.43 of 2011, dated 29.05.2013 is without there being any Notification under Section 3G (3) of the Act, 1956 and the same is not legal. It is contended that the notices issued under Sections 3E (1) and 3H (2) of the Act, 1956 are without giving any description

of the land and without specifying the date of Notification under Section 3A of the Act, 1956, and that the respondents have not followed the procedure contemplated under Sections 3A, 3C, 3D, 3E, 3G and 3H of the Act, 1956.

It is the further contention of the learned counsel for the petitioners that the compensation awarded by the respondents for the lands acquired is meagre; that the respondents have taken the market value of the lands from the year 2007 onwards, but not the market value prevailing by date of publication of the Notification under Section 3A of the Act, 1956, which is in violation of Section 7 (1) (a) of the Act, 1956. It is further contended that Income Tax is not liable to be deducted from the compensation amounts payable in respect of the lands acquired, and hence, the action of respondents in deducting amounts towards Income Tax from the compensation amount is contrary to law. Hence, it is prayed to allow the Writ Petitions.

7. Learned counsel appearing for the petitioners relied on the following decisions.

(i) in *Kolla Sambasiva Rao v. Union of India & others*,¹ wherein it is held thus: (paragraphs 57 and 69)

¹ 2024 SCC OnLine AP 5603

“57. So far as the submissions on the violation of the principles of natural justice in deciding the objections are concerned, Section 3-C of the NH Act provides for hearing the objections. In *Marella Marithi Prasada Rao case*⁵, this Court held that Section 3-C deals with hearing of objections. Under sub-section (1) thereof, any person interested in the land may, within 21 days from the date of publication of the notification under sub-section (1) of Section 3-A, object to the use of the land for the purpose or purposes mentioned in that sub-section. Section 3-C(2) of the NH Act stipulates that every objection, under Section 3-C(1), shall be made to the competent authority in writing and shall set out the grounds thereof, and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, by order, either allow or disallow the objections. The right to submit objections is conferred on a person interested in the land i.e. the person whose lands are sought to be acquired. The person interested in the land has not only the right to submit his written objections, but also the right to an oral hearing, either in person or through a legal practitioner and during hearing of the objections, under Section 3-C(1) of the Act, the person, whose lands are sought to be acquired, would be entitled to put forth all such contentions as are available in law.

...

69. The proposition of law is well-settled that opportunity of hearing as mandated by Section 3-C of the NH Act is to be provided and the same is not ritual or empty formality. That is a valuable right and such opportunity is to be provided in consonance with the principles of natural justice.”

(ii) in *Bhimavarapu Giridhar Kumar Reddy v. Union Government of India & others*², wherein it is held thus: (paragraphs 14 and 15).

“14. In the case on hand, violation of the mandatory provisions of Section 3 – C(2) by the 4th respondent, in failing to provide an opportunity of hearing to the petitioner (despite the mandate of Section 3 – C(2) and the specific request of the petitioner in this behalf vide his memorandum of objections dated 27.11.2008 and 04.01.2010), is established. On account of this illegality, all the proceedings subsequent to the stage under Section 3 – C(1) are void and inoperative and the fact of publication of a declaration under Section 3 – D(1) would not cure that fatal infirmity.

15. Affording of opportunity to persons whose lands are proposed for acquisition under the 1956 Act, mandated by Section 3 – C(1) is neither a ritual nor an empty formality. It is a salutary provision akin to the provisions of Section 5 – A of the Land Acquisition Act, 1894. In *Union of India v. Mukesh Hans*[1]; *Union of India v. Krishan Lal Arneja*[2]; *Mahender Pal and ors. v. State of Haryana and ors.*[3]; *Anand Singh v. State of U.P.*[4]; *Radhy Shyam v. State of U.P.*[5]; and in *Greater Noida Industrial Development Authority v. Devendra Kumar and others*[6], the Supreme Court observed that the opportunity of hearing to the land owners to object to acquisition of their lands is a valuable right which cannot be jettisoned for jejune reasons and that such opportunity and compliance with rules of natural justice is a small price which the State should always be prepared to pay before it can deprive any person of his

² 2012 (6) ALD 58 (DB)

property. These observations of the apex court made in the context of the Land Acquisition Act apply to the present acquisition a *fortiori*.”

8. On the other hand, it is submitted by the learned standing counsel appearing for the NHAI and the learned Government Pleader for Land Acquisition that the requirements of law as mandated under the provisions of the Act, 1956 have been complied with, by the respondents, by issuing Section 3A (1) Notification in two local newspapers, one of which in vernacular language; that as the entire extent of land proposed for acquisition was not published in the Notification under Section 3A (1) of the Act, 1956, dated 30.11.2009, separate Notifications under Section 3A (1) of the Act, 1956 were published on 27.07.2010 and 20.01.2012, in respect of the missing extents; that there is no requirement under the Statute to mention names of land owners in the said Notification, and that the description of the land, as notified in the Notification, would meet the requirement of law; that the Notifications clearly state that any person interested in the said lands may, within 21 days from the date of the Notification in the Official Gazette, object to the use of the land, and that the land plans and other details of the land covered under the Notifications are available and can be inspected by the interested persons in the office of the Competent Authority; that no

objections were received within the time stipulated under Section 3C of the Act, 1956. It is further submitted that the notice under Sections 3E (1), which is meant for delivery of possession of the land which was notified for acquisition, and notice under Section 3H (2) of the Act, 1956, which is issued intimating the details of compensation awarded to them and asking them to produce the necessary documents, were issued subsequent to the passing of the Award and need no description of the land, and that the lands were acquired after strictly following the procedure contemplated under the Act, 1956.

As regards quantum of compensation, it is submitted by the learned counsel that the market value of the land was fixed basing on the sales statistics received from the Sub Registrar concerned, preceding 3 years from the date of publication of Section 3A (1) Notification, and taking into consideration the time lag and day-to-day increase, increase in market value @ 9% per year was allowed, and that the valuation of the buildings and fixtures was done by the R&B Department and compensation was awarded to the land owners as recommended by the said Department. It is further submitted by the learned counsel that Income Tax @ 10% was deducted at source on the compensation awarded for assets /structures on agricultural land, as per the Circular

No.NHAI/13/LA/Policy/2006, dated 04.05.2010, and if the petitioners are aggrieved by the Award passed by the Competent Authority, they can as well avail the remedy of filing an application before the District Collector, Ongole, who is appointed as an Arbitrator by the Central Government, under Section 3 G (5) of the Act, 1956. Hence, it is prayed to dismiss the Writ Petitions.

9. Section 3A of the Act, 1956 deals with the power of Central Government to acquire land, etc. According to the Section 3A (1), where the Central Government is satisfied that for a public purpose, any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in Official Gazette, declare its intention to acquire such land. As per Section 3A (2) of the Act, 1956, every Notification under sub-section (1) shall give a brief description of the land and Section 3A (3) contemplates that the competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

10. The scheme of acquisition enshrined in the Act, 1956 makes it clear that when once the Central Government is satisfied that any land is required for the building, maintenance, management or operation of a national highway or part thereof, then, it shall

declare its intention to acquire such land by issuing a notification in the Official Gazette giving 'brief description' of the land. The substance of the Notification is also to be published in two local newspapers of which one has to be in a vernacular language. 'Any person interested in the land' can file objections within 21 days from the date of publication of the Notification in the Official Gazette, to the competent authority, in writing. Thereafter, the competent authority is required to give the objector an opportunity of hearing either in person or through a legal practitioner. The said exercise will be followed by an Order of the competent authority either allowing or rejecting the objections. In case no objection is made to the competent authority in terms of Section 3C (1) or in case the objections made are disallowed, then the competent authority has to submit a report to the Central Government, which shall then issue a Notification in the Official Gazette that the land should be acquired for the purpose or purposes mentioned in Section 3A (1) Notification. On publication of declaration under Section 3D (1), the land vests absolutely in the Central Government free from all encumbrances.

11. Section 3E of the Act, 1956 deals with 'Power to take possession'. After the land is vested in the Central Government and the amount of compensation determined by the Competent Authority

under Section 3G of the Act, 1956 with respect to such land, has been deposited under Section 3H(1) of the Act, 1956 with the Competent Authority by the Central Government, the Competent Authority takes steps for taking possession of the land as contemplated under Section 3E of the Act, 1956.

12. Perused the material on record. In the case on hand, the Special Collector, P.S. Veligonda Project, Ongole is appointed as the Competent Authority for Land Acquisition, under the provisions of the Act, 1956, for acquisition of land for the purpose of widening of National Highway-5, connecting Chennai-Kolkata Section, from 4 lane to 6 lane from KM 1182.802 KM to 1307.900 (Chilakaluripet-Rudrakota Section). For the said public purpose, NHAI sent a requisition to acquire land to an extent of 19501.24 square meters patta land and 1983.52 square meters of government land, situated in Martur village of Martur mandal, Prakasam district. Accordingly, a Notification as contemplated under Section 3A (1) of the Act, 1956 expressing the intention to acquire the said land was issued, in Gazette of India vide S.O.No.3061 (E), dated 30.11.2009, calling for objections, if any, from the persons interested, within 21 days from the date of publication of the said Notification. Substance of the said Notification was published in two local newspapers viz. The Hindu

daily English newspaper and Andhra Jyothi daily Telugu newspaper, on 14.12.2009. A perusal of the material on record further goes to show that after conducting survey and after receipt of enjoyment particulars, NHAI published a Notification under Section 3 D (1) of the Act, 1956 in Gazette of India vide S.O.No.1826 (E), dated 27.07.2010, and a public notice as contemplated under Section 3G (3) of the Act, 1956 was issued for the said lands on 21.1.2011 and the same was published in two local newspapers viz. The Hindu daily English newspaper and Sakshi daily Telugu newspaper.

13. It is also evident from the record that as the entire extent of land required for the said public purpose was not published in the Notification dated 30.11.2009 under Section 3A(1) of the Act, 1956, separate Notifications under Section 3A (1) of the Act, 1956, vide S.O.No.1825(E), dated 27.07.2010 and S.O.No.138 (E), dated 20.01.2012, were issued expressing the intention to acquire the missing extents of land, and substance of the said Notifications were published in local newspapers on 21.08.2010 and 07.03.2012. Thereafter, Notifications under Section 3D of the Act, 1956 were issued vide S.O.No.1670(E), dated 20.06.2011 and S.O.No.1889(E), dated 17.08.2012, and public notices as contemplated under Section 3G (3) of the Act, 1956 were issued on 22.11.2011 and 11.02.2013

and the same were got published in local newspapers. Thereafter, 5th respondent-competent authority passed Award No.43 of 2011, dated 29.05.2013 awarding compensation for the acquired lands. The petitioners herein, who are claiming to be owners of various extents of lands, filed the present Writ Petitions seeking to set aside the Publications, dated 14.12.2009, 21.08.2010 and 07.03.2012 issued under Section 3A (1) and (2) of the Act, 1956 and set-aside the Award No.43 of 2011 dated 29.05.2013 passed by 5th respondent.

14. On this aspect, it is the contention of the learned counsel appearing for the petitioners that the impugned Notifications under Section 3A (1) of the Act, 1956 do not contain description of the land and no plan is attached to the said Notifications, and in view of the same, the petitioners could not submit effective objections under Section 3C (1) of the Act, 1956 within the stipulated in the said Notification and hence, the very object of publishing the Notification is lost, and as the due procedure contemplated under the provisions of the Act, 1956 is not followed, the entire acquisition process is vitiated.

15. On a plain reading of the aforesaid provision goes to show that the stipulation of publication of the Notification in the vernacular language is essentially for the reason that the villagers would be aware of the proposal of the Government to acquire their lands. In the case on hand, the said requirement of law has been complied with, by the respondent-authorities by publishing the substance of the Notifications in the aforesaid daily newspapers. Section 3A (2) of the Act, 1956 contemplates that every Notification under sub-section (1) of Section 3A shall give a 'brief description' of the land proposed to be acquired. A perusal of the impugned Notifications issued under Sections 3A (1) of the Act, 1956 goes to show that 'brief description' of the land proposed to be acquired has been published in the said Notifications. The provisions of the Act, 1956 do not contemplate that names of the land owners whose lands are proposed to be acquired, have to be mentioned in the Notification under Section 3A (1) of the Act, 1956. The National Highways Act, 1956 is a comprehensive Code by itself and it is a special legislation enacted by the Parliament for acquisition of land required for the building, maintenance, management or operation of a National Highway or part thereof. Unlike the provisions in other enactments relating to land acquisition, there appears to be a conscious departure insofar as this Act is concerned, from notifying

all particulars of land in detail mentioning name of the land owner, etc. The Hon'ble Apex Court in *State of Karnataka v. Narasimha Murthy & others*, while dealing with a case of Notification under Section 3 (1) of the Karnataka Acquisition of Land for Grant of House Sites Act, 1972, held that omission to mention name of the land owner in the Notification does not vitiate the same.

16. As regards the contention that no plan is attached to the Notifications, it is pertinent to mention here that the Notification states that the land plans and other details of the land covered under the Notification are available and can be inspected by the interested persons at the aforesaid office of the Competent Authority. A Division Bench of the erstwhile common High Court in *Government of India v. M.Ramesh Babu & others*³, while dealing with similar contentions, set aside the Order of the learned single Judge quashing the Notification. The preliminary Notification challenged in the said case, contained not only name of the village, survey number/ division number, type of the land, area sought to be acquired, but also referred in clear terms that the interested persons can inspect the land plans and other details of the land covered by the Notification. The Division Bench held that it not only contained

³ Judgment dated 19.09.2007 in W.A.No.504 of 2007

the description of the land proposed to be acquired, but also mentioned that the land plans and other details of the land covered by the Notification are available in the office of the competent authority and the interested persons can inspect the same, and accordingly allowed the Writ Appeal, setting aside the Order passed by the learned single Judge quashing the Notification, and accordingly dismissed the Writ Petition, holding that if there was any ambiguity in the particulars incorporated in the Notification, the writ petitioners therein could have approached the competent authority and inspected the land plans and other details and then filed their objections, but such a course was not adopted.

17. Another Division Bench of the erstwhile common High Court in *Dano Vaccines & Biological (P) Limited, Hyderabad v. Government of India*⁴, while dealing with the similar contentions that the preliminary notification issued under Section 3A (1) of the Act, 1956 did not divulge full description of the lands to be acquired and fell foul of the requirement of Section 3A (2) of the Act, 1956, rejected the same by referring to judgment in *Government of India v. M.Ramesh Babu & others* (1 supra).

⁴ 2012 (2) ALD 387 (DB)

18. In a decision in *Lal Mani Jain v. Union of India*⁵, a Division Bench of the Delhi High Court held that reference to plans in respect of land proposed to be acquired and their availability with the Competent Authority for inspection by the interested persons would amount to substantive compliance in terms of Section 3A (2) of the Act, 1956.

19. In view of the aforesaid discussion, this Court has no hesitation to hold that since the impugned Notifications issued under Section 3A (1) of the Act, 1956 contain the brief description of the land proposed to be acquired, refer to the plans in respect of the same and availability of the plans with the Competent Authority for inspection, it would suffice to satisfy the compliance of Section 3A (2) of the Act, 1956. Therefore, the contentions of the learned counsel for the petitioners, in this regard are not sustainable.

20. As regards objections under Sections 3C (1) of the Act, 1956, there cannot be any dispute that objections under Section 3C (1) of the Act, 1956 are confined only to the utility of the lands for the purpose. In a decision in *Competent Authority v. Barangore Jute Factory & others*⁶, the Hon'ble Apex Court held that the objections

⁵ 2009 SCC OnLine Delhi 3683

⁶ (2005) 13 SCC 477

can be only to the use of the land under acquisition for purposes other than those under Section 3A (1) of the Act, 1956. The scope for filing and considering the objections under Section 3C (1) of the Act, 1956 is extremely limited, compared with the scope for filing objections in Section 5A enquiry under the Land Acquisition Act, 1894. The Act, 1956 gives a limited right to object to the acquisition of the land, as such. The only objection entertainable under the Act is non-suitability of the land for the purpose of road, etc. The writ petitioners have not filed any objection before 5th respondent within the time stipulated under the Act, 1956. Therefore, the petitioners are not entitled to get the acquisition proceedings invalidated.

21. The other contention of the learned counsel for the petitioners is that the Notifications issued under Section 3G of the Act, 1956 do not contain details and description of the land and the Award No.43 of 2011, dated 29.05.2013 is without there being any Notification under Section 3G (3) of the Act, 1956 and the same is not legal. It is contended that the notices issued under Sections 3E (1) and 3H (2) of the Act, 1956 are without giving any description of the land and without specifying the date of Notification under Section 3A of the Act, 1956.

22. The notice under Sections 3E (1), which is meant for delivery of possession of the land which was notified for acquisition, and notice under Section 3H (2) of the Act, 1956, which is issued intimating the details of compensation awarded to them and asking them to produce the necessary documents. The said notices were issued subsequent to the passing of the Award and need no description of the land, and that the lands were acquired after strictly following the procedure contemplated under the Act, 1956.

23. It is also pertinent to refer to a decision of the Hon'ble Apex Court in *Mazdoor Kisa Shakti Sangathan v. Union of India & others*⁷, wherein it is held thus:

“In the aforesaid context, it would be pertinent to point out that there may be situations where conflict may arise between two fundamental rights. Situation can be conflict on inter-fundamental rights, intra-fundamental rights, and in certain peculiar circumstances, in respect of some person, one fundamental right enjoyed by him may come in conflict with the other fundamental right guaranteed to him. In all such situations, the Court has to examine as to where lies the larger public interest while balancing the two conflicting rights. It is the paramount collective interest which would ultimately prevail.”

⁷ (2018) 17 SCC 324

24. As regards the scope of judicial review in the matters of land acquisition for the subject purpose, it is pertinent to refer to a decision in *Union of India v. Dr. Kushala Shetty & others*⁸, wherein the Hon'ble Apex Court held thus: (paragraph 28)

“Here, it will be 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 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 subserve the larger public interests. In such matters, the scope of judicial review is very limited. The Court can nullify the acquisition of land and, in rarest of rare cases, the particular project, if it is found to be *ex facie* contrary to the mandate of law or tainted due to *mala fides*. In the case on hand, neither any violation of mandate of the 1956 Act has been established nor the charge of malice in fact has been proved. Therefore, the order under challenge cannot be sustained.”

⁸ (2011) 12 SCC 69

25. The subject acquisition of land is for the purpose of widening of National Highway-5, connecting Chennai-Kolkata Section, from 4 lane to 6 lane from KM 1182.802 KM to 1307.900 (Chilakaluripet-Rudrakota Section). It is settled principle that in cases of acquisition of large parcels of land, the objections of a minority of land holders, even if well founded, can be ignored if the majority of the land holders accept the acquisition proceedings. The ratio behind this principle is that where a large extent of land is being acquired for execution of a comprehensive project and the majority of the land holders accept the scheme, it would not be permissible to stall the entire scheme for the sake of a few land holders. This is because the entire land is needed to implement the object of the acquisition and deletion of a small part of the land would render the scheme unimplementable. Such a course of action should not be taken, even if the objections of the minority of the land holders are tenable and well founded. It is settled proposition of law that collective interest of the public at large prevails over the rights/interest of some private individuals. It is stated that in the case on hand, barring the petitioners herein, there is no objection from any quarter. Therefore, the contention of the learned counsel for the petitioners with regard to the objections, is not tenable. In view of

the foregoing discussion, this Court does not find any merits in the present Writ Petitions, and the same are liable to be dismissed.

26. With regard to the other contention regarding fixation of market value is concerned, it is the contention of the learned counsel for the petitioners that the respondents have taken the market value of the lands from the year 2007 onwards, but not the date of publication of the Notification under Section 3A of the Act, 1956, which is in violation of Section 7 (1) (a) of the Act, 1956. It is their further contention that Income Tax is not liable to be deducted from the compensation amounts payable in respect of the lands acquired, and hence, the action of respondents in deducting amounts towards Income Tax from the compensation amount is contrary to law. On the other hand, it is submitted by the learned counsel for respondents that the market value of the land was fixed basing on the sales statistics received from the Sub Registrar concerned, preceding 3 years from the date of publication of Section 3A (1) Notification, and taking into consideration the time lag and day-to-day increase, increase in market value @ 9% per year was allowed. It is their submission that valuation of the buildings and fixtures was done by the R&B Department and compensation was awarded to the land owners as recommended by the said Department. It is further

submitted by the learned counsel that Income Tax @ 10% was deducted at source on the compensation awarded for assets/ structures on agricultural land, as per the Circular No. NHAI/13/LA/Policy/2006, dated 04.05.2010.

27. Section 3G of the Act, 1956 deals with 'Determination of amount payable as compensation'. Under Section 3G (7), the Competent Authority or the Arbitrator, while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall *inter alia* take into consideration the market value of the land on the date of publication of the Notification under Section 3A. In the case on hand, admittedly, the Notification as contemplated under Section 3A (1) of the Act, 1956 expressing the intention to acquire the said land was issued, in Gazette of India vide S.O.No.3061 (E), dated 30.11.2009, calling for objections, if any, from the persons interested, within 21 days from the date of publication of the said Notification, and substance of the said Notification was published in two local newspapers viz.The Hindu daily English newspaper and Andhra Jyothi daily Telugu newspaper, on 14.12.2009. According to the petitioners, the market value of the lands from the year 2007 onwards, but not the date of publication of the Notification under Section 3A of the Act, 1956. Even according to the respondents,

the market value of the land was fixed basing on the sales statistics received from the Sub Registrar concerned, preceding 3 years from the date of publication of Section 3A (1) Notification, and compensation was fixed by adding other statutory benefits. Therefore, there is any amount of ambiguity as whether the market value of the lands prevailing as on the date of publication of Section 3A (1) Notification i.e. as on 30.11.2009. Further, according to the petitioners, Income Tax is not liable to be deducted from the amount of compensation paid towards acquisition of the lands, assets /structures on Agriculture land, which runs contrary to Section 194 of the Income Tax Act, 1961, and the same is contrary to the judgments of the Hon'ble Apex Court. Whereas, according to respondents, Income Tax @ 10% was deducted at source on the compensation awarded for assets/ structures on agricultural land, as per the Circular No.NHAI/13/LA/Policy/2006, dated 04.05.2010. Therefore, in the considered opinion of this Court, these issues require reconsideration by the Competent Authority. Accordingly, the petitioners are given liberty to submit appropriate representations, along with copies of supporting documents, to the Competent Authority, with regard to their claim of the alleged market value of their respective lands acquired for the aforesaid public purpose and also as regards Income Tax Deducted at Source while

paying the compensation amount to them, within a period of eight weeks from the date of receipt of a copy of this Order. On receipt of the said representations, the Competent Authority shall consider the same and take appropriate decision in accordance with law for fixing the market value of the lands acquired along with attendant statutory benefits entitled to, by the petitioners, including liability to pay Income Tax, within a period of eight weeks thereafter.

28. Accordingly, with the aforesaid observations, the Writ Petitions are dismissed. There shall be no order as to costs of the Writ Petitions.

Miscellaneous petitions pending, if any, in the Writ Petitions shall stand closed.

(Justice K.Sreenivasa Reddy)

17.04.2026
DRK

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

COMMON ORDER

in

**WRIT PETITION Nos.35960 of 2013, 35961 of 2013,
35962 of 2013, 35963 of 2013, 35964 of 2013, 36034 of 2013,
36035 of 2013, 36036 of 2013, 36037 of 2013, 36038 of 2013,
36039 of 2013, 36040 of 2013, 36041 of 2013, 36042 of 2013,
36043 of 2013, 36044 of 2013, 36045 of 2013, 36046 of 2013,
36047 of 2013, 36048 of 2013, 36049 of 2013, 36050 of 2013,
36051 of 2013, 36052 of 2013, 36054 of 2013, 36055 of 2013,
36056 of 2013, 36057 of 2013, 36058 of 2013 and 1168 of 2014**

17.04.2026

*** HONOURABLE SRI JUSTICE K.SREENIVASA REDDY**

+ WRIT PETITION Nos.35960 of 2013, 35961 of 2013, 35962 of 2013, 35963 of 2013, 35964 of 2013, 36034 of 2013, 36035 of 2013, 36036 of 2013, 36037 of 2013, 36038 of 2013, 36039 of 2013, 36040 of 2013, 36041 of 2013, 36042 of 2013, 36043 of 2013, 36044 of 2013, 36045 of 2013, 36046 of 2013, 36047 of 2013, 36048 of 2013, 36049 of 2013, 36050 of 2013, 36051 of 2013, 36052 of 2013, 36054 of 2013, 36055 of 2013, 36056 of 2013, 36057 of 2013, 36058 of 2013 and 1168 of 2014

% 17.04.2026

#WRIT PETITION NO: 35960/2013

Between:

V.veera Swamy, Son Of Venkateswarlu, and
Others

...PETITIONER(S)

AND

The Government Of India and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

1.V PADMANABHA RAO

Counsel for the Respondent(S):

1.GP FOR LAND ACQUISITION

2.

3.S S VARMA (SC FOR NHAI)

< Gist:

> Head Note:

? Cases referred:

2024 SCC OnLine AP 5603

2012 (6) ALD 58 (DB)

Judgment dated 19.09.2007 in W.A.No.504 of 2007

2012 (2) ALD 387 (DB)

2009 SCC OnLine Delhi 3683

(2005) 13 SCC 477

(2018) 17 SCC 324

(2011) 12 SCC 69

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION Nos.35960 of 2013, 35961 of 2013, 35962 of 2013, 35963 of 2013, 35964 of 2013, 36034 of 2013, 36035 of 2013, 36036 of 2013, 36037 of 2013, 36038 of 2013, 36039 of 2013, 36040 of 2013, 36041 of 2013, 36042 of 2013, 36043 of 2013, 36044 of 2013, 36045 of 2013, 36046 of 2013, 36047 of 2013, 36048 of 2013, 36049 of 2013, 36050 of 2013, 36051 of 2013, 36052 of 2013, 36054 of 2013, 36055 of 2013, 36056 of 2013, 36057 of 2013, 36058 of 2013 and 1168 of 2014

WRIT PETITION NO: 35960/2013

Between:

V.veera Swamy, Son Of Venkateswarlu, and Others ...PETITIONER(S)

AND

The Government Of India and Others ...RESPONDENT(S)

Counsel for the Petitioner(S):

1.V PADMANABHA RAO

Counsel for the Respondent(S):

1.GP FOR LAND ACQUISITION

2.

3.S S VARMA (SC FOR NHAI)

DATE OF COMMON ORDER PRONOUNCED : 17.04.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE K. SREENIVASA REDDY

1. Whether Reporters of Local Newspapers
may be allowed to see the Order? Yes/No
2. Whether the copy of Order may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Order? Yes/No

JUSTICE K.SREENIVASA REDDY