

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH**

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WRIT PETITION No.22814 of 2015

BETWEEN

P.E. Vinod Kumar.

... PETITIONER

AND

The State of Telangana, Rep. by its Principal Secretary to Government,
Revenue Department & Land Acquisition, Telangana Secretariat,
Hyderabad and others.

...RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 31.08.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | No |

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ORDER:

Petitioner questions the proceedings of the second respondent dated 23.06.2015 rejecting his objections under Section 5A of the Land Acquisition Act, 1894.

2. Necessary facts of the case are that the Managing Director of Hyderabad Metro Rail Limited had sent a requisition for acquisition of various premises in Ameerpet, Hyderabad including the petitioner's premises bearing No.6-3-830/1/12/1/A. So far as the petitioner is concerned, the extent affected for the purpose of road widening under culverts and bends from Greenlands junction to Ameerpet junction is 79.17 sq. yards. Though the impugned proceedings refers to Section 5A of the Land Acquisition Act, 1894, admittedly, all the proceedings are taken under the Central Act 30 of 2013 and after initial notification dated 04.07.2015, referred to above, the petitioner was given notice to submit objections under Section 15(2) of the Central Act 30 of 2013. Petitioner has submitted written objections on 21.05.2105 before the Special Deputy Collector (Land Acquisition), third respondent herein. Under the impugned proceedings, the District Collector, rejected the objections including that of the petitioner as shown in the annexure A appended to the impugned proceedings.

3. The objections of the petitioner as well as the various ground urged in the writ petition, as contended by the learned counsel for the petitioner, are that there was no opportunity of personal hearing afforded to the petitioner and his objections were rejected without giving opportunity to the petitioner. It is averred that though the petitioner personally presented the objections before the third respondent on 21.05.2015, he was informed that the date for consideration of the objections would be intimated but no hearing as such took place on 21.05.2015. However, petitioner received the impugned proceedings depriving him of leading evidence in support of his objections.

The impugned proceedings are also questioned on the ground that the notification itself is published without prior Social Impact Assessment and as such, it is contrary to Section 19(1) of the Central Act 30 of 2013. It is also contended that no public purpose is envisaged by the proposed acquisition and in fact, the acquisition is only on one side of the road, which is discriminatory.

4. The third respondent has filed a counter denying the petitioner's averments and it is, on the contrary, stated that the notice dated 23.03.2015 calling for objections was issued by fixing a date for personal hearing also on 21.05.2015. It is stated that the petitioner submitted objections on that date but did not attend personal hearing. However, all objections of the petitioner were considered after receipt of remarks from the requisitioning department and the impugned proceedings was served on the petitioner on 24.06.2015. It is also stated that in view of the Government of India's Ordinance No.9 of 2014 dated 31.12.2014, the provisions of Chapters II & III of the Central Act 30 of 2013 are exempted with regard to infrastructure projects including projects under public private partnership and as such, neither the Social Impact Assessment is necessary to be undertaken, as contended by the petitioner, nor public hearing is required. It is also contended that the acquisition was necessitated for public purpose viz. Metro Rail Project to provide Metro Rail Corridors of minimum 100 feet to facilitate the metro rail work/free movement of traffic during and after execution of the project.

5. Learned standing counsel appearing for respondents 3 and 5 would substantiate the above averments by pointing out the remarks column in Annexure A to the impugned proceedings wherein each objection of the petitioner was duly considered and rejected giving reasons.

6. Learned counsel for the petitioner, however, places reliance upon the decisions of the Supreme Court in **KAMAL TRADING PRIVATE LIMITED v. STATE OF WEST BENGAL**^[1] and **GOJER BORTHES PRIVATE**

LIMITED v. STATE OF WEST BENGAL ^[2].

In both the decisions, the Supreme Court considered the scope of right or protection of citizens under compulsory acquisition private under Section 5-A of the Land Acquisition Act, 1894, which is analogous to Section 19 of the Central Act 30 of 2013. In the decision first cited,

on the facts of that case, it was found that inasmuch as the notification issued by the LAO fixing the date for hearing objections, but on request of petitioner adjournment was sought for on the ground that the constituting attorney was unable to attend and the advocate was out of station. However, thereafter, no further communication was received and straightaway Section 6 declaration was issued. Considering those facts, the Supreme Court held that that was a case of total non-compliance or substantial non-compliance with the provisions of Section 5-A of the LA Act. The Supreme Court further found that the report of the LAO shows total non-application of mind to the objections of the petitioner and merely on the ground of greater interest of public, the objections were rejected and the report was bereft of any reasons. The Supreme Court also observed in para 28 that the LAO is not expected to write a detailed report but his report, however, brief should have reflected application of mind.

7. In the decision second cited, the LAO had, in fact, conducted hearing and then submitted a report based on which Section 6 declaration was issued. On the facts of that case, the Supreme Court found that the LAO had no dealt with any of the objections of the petitioner therein and summarily rejected the same, as if compliance with Section 5-A(2) of the LA Act was an empty formality and the State Government also mechanically approved the one line recommendation made by the Land Acquisition Collector.

8. Both the aforesaid decisions, in my view, have to be appreciated in the context of facts of the cases before the Supreme Court and the principle laid down in that context. In the present case, however, the objections were

called for by fixing a date for hearing of the objections also as is evident from the notice issued under Section 15(2) of the Central Act 30 of 2013 dated 23.03.2015, which specifically states as follows:

“Objections received within the due date, if any, will be enquired into **on 21-05-2015 at 11.30 A.M., at Office of the Spl.Dy.Collector, LA. HMR, GHMC, 4th floor, Municipal Complex, Tank Bund, Hyderabad** when the objectors/you will be at liberty to appear in person or by advocate and to adduce any oral or documentary evidence in support of their/your objections.”

9. Petitioner has, admittedly, appeared on that date and submitted his objections. However, there is controversy as to whether any personal hearing was held on that date, as the petitioner denies the same whereas the respondents assert the same. Even otherwise, annexure A to the impugned proceedings show that each and every objection of the objectors including that of the petitioner was considered and detailed reasons for rejection were recorded.

In my view, therefore, there is substantial compliance of Section 5-A and the purpose of acquisition being, admittedly, for public purpose,

I find it difficult to accept the contentions of the learned counsel for the petitioner. It is also to be noted that it is not that only the property of the petitioner is being affected but as it falls in the line of alignment along with various other properties of the neighbours of the petitioner, in public interest, the acquisition is clearly inevitable, as such, the impugned proceedings do not deserve to be interdicted by this Court.

The writ petition is accordingly dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

August 31, 2015
DSK

[\[1\]](#) (2012) 2 SCC 25

[\[2\]](#)
(2013) 16 SCC 660