

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

[Special Original Jurisdiction]

FRIDAY THE SIXTEENTH DAY OF SEPTEMBER, 2016

PRESENT
HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION NO. 31013 OF 2016

Between:

Challa Janardhana Rao

Petitioner

V/s.

Union of India
Represented by its Secretary
Roads, Transport & National Highways,
Ministry of Roads, Transport &
National Highways, New Delhi & Ors. ...

Respondents

Counsel for the Petitioner:

Sri C. Raghu

Counsel for the Respondents:

Sri S.S.Varma for R-1 & R-2
GP for Land Acquisition [AP] for R3

The court made the following:

[order follows]

HONOURABLE SRI JUSTICE SURESH KUMAR KAITWRIT PETITION NO. 31013 OF 2016ORDER :

This writ petition is filed by the petitioner seeking mandamus to declare the orders dated 08/8/2016 passed by the third respondent vide Rc.No. NH-216/G-1/3968/2014 under section 3 [c] [1] of National Highways Act, 1956 rejecting the objections of the petitioner to withdraw the paper publication with regard to the National Highway No.216 published in Sakshi daily news paper and Deccan Chronicle on 01/06/2016 and also to conduct special survey with regard to the National Highways, as illegal, arbitrary and without jurisdiction and set aside the same and to pass such other suitable orders as this Court may deem fit and proper in the circumstances of the case.

2. In the writ affidavit, it is stated that a notification was issued by the third respondent for upgradation of NH-216 into two lanes with paved shoulders within the stretch of land from KM-195.355 to KM-254.672 [Chirala to Ongole Section] in the Prakasam district,

State of Andhra Pradesh, published in Gazette of India vide S.O.2035[E] dated 24/7/2015 with details of survey number-wise land proposed for acquisition and the same was also published in Sakshi daily in Telugu and the Hindu daily in English on 31/7/2015 calling for objections.

3. Accordingly, the petitioner filed objections, whereby stated that the third respondent does not have any jurisdiction to conduct enquiry under section 3 [c] [1] of the National Highways Act, 1956 unless and until the subject-matter of the present notification which was published in Saakshi daily and Deccan Chronicle on 01/6/2016 is published in the Gazette of India containing all the details. The publication of notification in Gazette of India is an essential requirement. In fact the third respondent had followed the procedure when the notification dated 31/7/2015 was published in the local news paper by publishing the same in the Gazette of India on 24/7/2015.

4. The grievance of the petitioner herein is that the order dated 08/8/2016 that has been passed by the third respondent purportedly under section 3 [c] [1] of National Highways Act, 1956 is without jurisdiction for the reason that no Gazette notification has been issued and the third respondent does not have any jurisdiction to entertain the objections and proceed with the acquisition process without a notification being published in the Gazette of India.

5. The fact remains that in objections dated 24/7/2016 the petitioner has not raised any objection regarding the procedure followed under section 3 [c] [1] of National Highways Act, 1956 on the point of jurisdiction. The respondents accordingly considered the representation of the petitioner that the petitioner is having agricultural land in survey Nos. 1/2A, 1/4, 2/2B, 2/1, 3/8, 3/10, 4/1, 5/1, 6/1, 7/1, 8/1 etc., of Pullaripalem village and they are using the said lands for aqua culture and the National Highway authorities have proposed to acquire land for widening of NH-216 into two lanes. It is further stated by the petitioner in the writ petition that the

existing road can be extended on both sides. The proposed bypass road alignment is having so many bends not straight and it is not useful for the people and expose to inundation problem. He has further stated that he came to know that a writ petition is pending before this Court on the notification published for acquisition of land for upgradation of NH-216 and requested to drop the new notification.

6. It is not in dispute that the petitioner was informed that proposed acquisition for NH-216 upgradation works in Prakasam district has been taken by the Government of India duly following the provisions of National Highways Act, 1956 and at this juncture the petitioner's claim that it is against the procedure cannot be considered. Vide notifications dated 31/7/2015 and 01/6/2016 it has been communicated to all the interested parties that the land acquisition plans falling under the purview of the notifications has been made available in the Office of the CALA. Accordingly, the request of the objector that the map of the proposed acquisition to

be published in news papers is against the provisions of National Highways Act, and his request was not considered. The detailed enjoyment survey as per the provisions of National Highways Act are carried out by the Mandal Revenue Officer using precise survey equipment. The petitioner was informed that the present notification dated 01/6/2016 is only to notify the additional and missing extents of the same alignment notified vide the earlier 3-A notification dated 31/7/2015. The petitioner was also informed that there are no pending orders against the said notification in this court. Finally, the petitioner was informed that the present bypass alignment through Pullaripalem and Pandillapalli is fixed based on the detailed studies done by the Detailed Projector Report [DPR] consultant, keeping in view of the various factors with high degree of technical expertise in this field and using the best technical parameters for implementation of the project. The alignment as per the acquisition plan submitted by the Project Director, National Highways Authority of India, PIU,

Machilipatnam confirms with the Geometrical requirements of IRC code and topographical conditions of the area.

7. In view of the facts recorded above, I find no merit to review the decision and find no merit in the present writ petition and the same is accordingly dismissed at the admission stage. No costs.

8. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.



JUSTICE SURESH KUMAR KAIT.

16/09/2016
I s L

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION NO. 31013 OF 2016



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