

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION Nos.9920, 9921, 10189 and 12389 of 2017

COMMON ORDER :

These writ petitions are filed under Article 226 of the Constitution of India, seeking the following reliefs:

(i) W.P.No.9920 of 2017:

“... to issue an appropriate order or direction more particularly, one in the nature of Writ of Mandamus declaring the action of the respondents in trying to take possession of land belongs to petitioners situated in Dharmarao Cheruvupalli Vilage, Marripadu Mandal, SPSR Nellore District without determination of the compensation by following procedure contemplated under Section 3G of the National Highways Act, 1956 and without following the procedure contemplated under Section 3E of the National Highways Act, 1956 as illegal, arbitrary, malafidy, ultra-virus and against to the principles of natural justice and consequentially direct the respondents not take possession of lands of the petitioners without following the procedure contemplated under the National Highways Act, 1956 in interest of justice and pass such other order or orders as this Hon’ble Court may deem fit and proper and in the circumstances of the case.”

(ii) W.P.No.9921 of 2017:

“to issue an appropriate order or direction more particularly, one in the nature of Writ of Mandamus declaring the action of the respondents in trying to take possession of land belongs to petitioners situated in Dharmarao Cheruvupalli Village, Marripadu Mandal, SPSR Nellore District without determination of the compensation by following procedure contemplated under Section 3G of the National Highways Act, 1956 and without following the procedure contemplated under Section 3E of the National Highways Act, 1956 as illegal, arbitrary, malafidy, ultra-virus and against to the principles of natural justice and consequentially direct the respondents not take possession of lands of the petitioners without following the procedure contemplated under the National Highways Act, 1956 in interest of justice and pass such other order or orders as this Hon’ble Court may deem fit and proper and in the circumstances of the case.”

(iii) W.P.No.10189 of 2017:

“to issue an appropriate Writ, Order or Direction, particularly, one in the nature of Writ of Mandamus, declaring the action of the respondents in acquiring the lands belongs to the Petitioners and determining the compensation without issuing public notice as per sub-section (3) of Section 3 G of National Highways Act, 1951 and thereby publishing the Award is arbitrary, unreasonable and accordingly set aside impugned Notification issued by the 1<sup>st</sup> respondent dated 21-6-2016 as well as the impugned Award of the 3<sup>rd</sup> respondent vide Rc.I(L.A.) 301/16 DATED 8-2-2017 and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the lands belongs to the petitioners to an extent of Ac.0.04 cents of Land in Survey No.187/3 of DC Palli village, Marripadu Mandal, Sri Potti Sriramulu Nellore District and to pass such other and further orders as this Hon’ble Court deems fit and proper in the circumstances of the case.”

(iv) W.P.No.12389 of 2017:

“to issue an appropriate Writ, Order or Direction, particularly, one in the nature of Writ of Mandamus, declaring the action of the 3<sup>rd</sup> respondent in determining the compensation without following the procedure contemplated under Section 3 G (1) of National Highways Act, 1951 and thereby publishing the Award is arbitrary, unreasonable and accordingly set aside impugned Notification issued by the 1<sup>st</sup> respondent dated 21-6-2016 as well as the impugned Award of the 3<sup>rd</sup> respondent vide Rc.I(L.A.) 301/16 dated 8-2-2017 and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the land as well as House belongs to the petitioner to an extent of Ac.0.02 cents of Land in Survey No.187/3 of DC Palli village, Marripadu Mandal, Sri Potti Sriramulu Nellore District and to pass such other and further orders as this Hon’ble Court deems fit and proper in the circumstances of the case.”

2. Heard learned counsel for the respective petitioners, learned Government Pleader for Land Acquisition, Sri S.S.Varma, learned Standing Counsel for National Highways Authority of India and learned Assistant Solicitor General representing Union of India and perused prayers in the respective writ petitions with supporting affidavits, counter-affidavit with supporting material including award showing compliance of the requirement under Sections 3(A) and (D) of the National Highways Act, 48 of 1956 (for short

‘the Act, 1956’) respectively, the provisions of law covered by Section 3A to J of the Act and the order in SO 2368(E) dated 28.08.2015, notified by the Ministry of Rural Development, Union of India referring to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 30 of 2013 (for short ‘the Act, 2013), in particular as per Section 105(3) of the Act, 2013 promulgated notification on 31-12-2014 amending Section 105 of the Act, 2013, making provisions of the Act, 2013 relating to the determination of compensation, rehabilitation and resettlement shall apply (As provided IV schedule of the Act, 2013) for the 13 enactments therein by extending the benefits of acquisition covered by the Act, 1956 (as item 7) and in continuity to the 1<sup>st</sup> Ordinance 4 of 2015, dated 03.04.2015 by 2<sup>nd</sup> Ordinance 5 of 2015, dated 30.05.2015, as per Article 123 of the Constitution of India before its lapse by 31.08.2015, on 28.08.2015, w.e.f. 01.09.2015 by this order in SO No.2368(E) referring as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Removal of Difficulties ) Order, 2015 by applying the provisions of the Act, 2013 relating to the determination of compensation in accordance with the First Schedule provides with reference to Sections 26 and 31 for

minimum compensation package rehabilitation and resettlement in accordance with the Second Schedule (prescribing the elements for the affected families) and infrastructure amenities in accordance with the Third Schedule (as per Sections 332, 38(1) and 105(3) to all cases of land acquisition and the expressions of this Court and of the Apex Court relied on by the petitioners and respondents respectively.

Earlier the W.P.No.8174 of 2017 was disposed of on 10.03.2017, in similar facts, with an observation that “In view of the same and having regard to the submissions made by the learned Counsel for both parties, this Court deems it appropriate to dispose of the present Writ Petition, with liberty to the petitioners to make an application under Section 3-G (5) of the Act, for determination of the just amount of compensation by the Arbitrator, within three weeks from the date of receipt of this order. If such an application is made, the same shall be considered and appropriate action be taken by the respondents in accordance with law as expeditiously as possible.”

4. Coming to decide the four matters on hand involving common issues with reference to similar facts, from the supporting affidavits averments are almost similar, but for,

a little difference with regard to the extents for the same purpose of acquisition; it is impugned saying the Authorities did not serve personal notice and afford opportunity by personal hearing to oppose the acquisition is not for public purpose or to claim fair compensation and the same is contrary to the principles of natural justice and the acquisition proceedings are liable to be quashed or to be declared as null and void and that even Section 3G(3) of the Act, not complied with.

5. It is the submission by the learned Government Pleader for Land Acquisition and the learned Standing Counsel supra with reference to the counter-affidavit that there is a due compliance of the provisions of Sections 3A to 3D of the Act, 1956, that said Gazette Notification and publications in two local newspapers as contemplated with public notice for those persons having interest to appear and submit details with regard to the extents and entitlement including to hear on any objections and also for fixing of just compensation as per the criteria provided under Section 3G (1) to (5) to be followed (also with reference to Schedules 1 to 4 of the Act, 2013) including as per Section 3G(7) of the Act, 1956 and the award passed also reflects the compliance that is enclosed as part of the counter-affidavit.

6. Before going into the merits, it is necessary to reproduce in verbatim, the relevant provisions covered by Section 3(1)(A) to 3(1)(J) as follows:

(1) 3. Definitions.—In this Act, unless the context otherwise requires,—  
(a) “competent authority” means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification;

(b) “land” includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.]

(a) [3A. Power to acquire land, etc.—

(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 the Official Gazette, declare its intention to acquire such land.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) 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.]

(b) [3B. Power to enter for survey, etc.—On the issue of a notification under sub-section (1) of section 3A, it shall be lawful for any person, authorised by the Central Government in this behalf, to—

(a) make any inspection, survey, measurement, valuation or enquiry;

(b) take levels;

(c) dig or bore into sub-soil;

(d) set out boundaries and intended lines of work;

(e) mark such levels, boundaries and lines placing marks and cutting trenches; or

(f) do such other acts or things as may be laid down by rules made in this behalf by that Government.]

(c) [3C. Hearing of objections.—

(1) Any person interested in the land may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 3A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(2) Every objection under sub-section (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 the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.—For the purposes of this sub-section, “legal practitioner” has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961).

(3) Any order made by the competent authority under sub-section (2) shall be final.]

(d) [3D. Declaration of acquisition.—

(1) Where no objection under sub-section (1) of section 3C has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land should be acquired for the purpose or purposes mentioned in sub-section (1) of section 3A.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 3A for its acquisition but no declaration under sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect: Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 3A is stayed by an order of a court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.]

e) [3E. Power to take possession.—

(1) Where any land has vested in the Central Government under sub-section (2) of section 3D, and the amount determined by the competent authority under section 3G with respect to such land has been deposited under sub-section (1) of section 3H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply—

(a) in the case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District, and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.]

f) 3F. Right to enter into the land where land has vested in the Central Government.—Where the land has vested in the Central Government under section 3D, it shall be lawful for any person authorised by the Central Government in this behalf, to enter and do other act necessary upon the land for carrying out the building, maintenance, management or operation of a national highway or a part thereof, or any other work connected therewith.]

g) 3G. Determination of amount payable as compensation.—

(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that

land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(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 take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.]

h) [3H. Deposit and payment of amount.—

(1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.]

i) 3-1. Competent authority to have certain powers of civil court.—The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commission for examination of witnesses.]

j) 3J. Land Acquisition Act 1 of 1894 not to apply.—Nothing in the Land Acquisition Act, 1894 shall apply to an acquisition under this Act.]

7. From Section 3J, it is crystal clear that the provisions of the Land Acquisition Act, 1894, have no application, because this is a special enactment to serve the public purpose in the larger interest of laying the National Highways with separate set of procedure envisaged and prescribed to be followed. However, what all further to say is some of the provisions of the Act, 2013 also shall apply for determination of compensation as per its First Schedule and where required to provide for rehabilitation and resettlement and or infrastructure amenities with reference to Schedules I to IV and Sections 26, 31, 32, 38 and 105(3) of the Act, 2013.

8. In fact from perusal of Section 3(1)(A to J) of the Act, 1956 and even with reference to the Central Government Order supra, there is nothing contemplated of mentioning

any names of land owners or persons being affected in the Section 3(1)(A) notification or Section 3(1)(D) declaration or in the paper publications but for by public notice from notifications and paper publications, no personal notices are contemplated. If to the Section 3(1)(A) Gazette Notification and paper publications, no objections received within 21 days therefrom to enquire under Section 3(1)(C), the declaration under Section 3(1)(D) shall follow by Gazette Notification and paper publications and consequent to it the lands vest statutorily with the Central Government by diversity of all rights of owners or other persons having interest on the lands, but for to claim just compensation no objection to the Government or the other authorized to enter and lay roads etc. by taking possession on payment or deposit of compensation and none can obstruct and if any obstruction caused Police Commissioner or Collector shall cause remove any such obstruction. The Division Bench expression of this Court in Dano Vaccines & Birlica (P) Ltd, Hyderabad and another v. Government of India<sup>1</sup> is also clear in this regard by referring to the expression of the Apex Court in Competent Authority v. Bangalore Jute Factor and others<sup>2</sup>. For more clarity on Section 3(1)(A to Z) of the Act, which no way require repetition, it is virtually

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<sup>1</sup> 2012(2) ALD 387

<sup>2</sup> 2005(13) SCC 477

expressing the intention of the Central Government for the National Highway Authority, to acquire the land covered by certain extent for laying of the road etc., as a public purpose. Once it is the intention, it is inviting the public by mentioning the description of the land only and not even who are the persons interested or names of the persons with reference to revenue record or otherwise. It is only the substance of said notification to be published in the two local newspapers, one of which must be in the vernacular language. A perusal of the award and the counter-affidavit with enclosures to the counter-affidavit are crystal clear of Section 3A is complied with and thereby the expression of the Apex Court in Mahmood Bind Mohammed and others v. Government of Telangana and others<sup>3</sup> has no assistance to the petitioners in the writ petitions. Their contention of no names of them mentioned in the notification and no notices served on them to submit objections and there is no opportunity to them to file objections or there is thereby non-compliance of Section 3A of the Act has no legs to stand, to consider such contentions by placing reliance on said expression supra.

10. Coming to Section 3B what is reproduced supra speaks of after notification under Section 3A, the authority of the

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<sup>3</sup> 2017(3) ALD 421

Central Government for acquisition or the persons authorized in this regard are entitled to make inspection, survey, measurement and valuation or enquiry, dig the land, set boundaries and lines of work, mark such levels, boundaries, lines placing marks and cutting trenches etc. It is practically without taking possession contemplated by Section 3E, entering into the land for any preliminary works is statutorily permitted. Section 3C speaks of hearing of objections filed if at all by any body pursuant to the Section 3A notification of intimation to the public in general to have any of the objections concerned within 21 days of the said publication to submit. Under Section 3A, if any persons come forward to object to the public purpose of proposed acquisition of the lands, they can be heard and decision to be made. Practically, in this case pursuant to the notification, within 21 days, nobody filed objections. What the petitioners contend is that pursuant to the notification published, though, total extent not depicted they appeared before the Panchayat respectively of the venue fixed and no enquiry was conducted. None of them even by making a mention atleast filed any representation if it is true, leave about any prudent person under Section 3 of the Indian Evidence Act supposed to do is sending of written objections

if at all by registered post, though, said procedure is not contemplated.

11. Having regard to the above, when 3A notification was dated 21.06.2016, leave about the subsequent declaration under Section 3D was dated 16.09.2016, it is not even the case of the writ petitioners that they appeared within 21 days to the 3A notification pursuant to the publications and notification and submitted any written objections for the hearing contemplated by Section 3C of the Act. That is also reflected from the counter-affidavits of no participation to the enquiry fixed to appear and file any objections and but for few of them, many in fact voluntarily come forward for the acquisition only saying of their entitlement to compensation and even voluntarily removed their super structures etc., if any.

12. Coming to Section 3D declaration of acquisition, it arises only pursuant to Section 3A and after survey if any contemplated by Section 3B and if at all any person interested pursuant to Section 3A notification filed any objection, on conducted enquiry and on passing orders referring to any such objections. As discussed supra that enquiry under Section 3(c) does not arise in these cases on hand for no objections received even many participated but

for sought just compensation. Thus, from the Section 3D declaration of acquisition, there is vesture of the said land by virtue of the acquisition by the declaration under Section 3D of the Act, 1956 on the Central Government for the benefit of the National Highways Authority. Thus, there also there is nothing contemplated of any personal notices or personal hearing.

13. Coming to Section 3E, which confers the power to take possession. The very title of the Section itself empowers in the wording of power to take possession, which is a resumption from the vesture practically. Same as reproduced above that no way requires repetition herein, but for, to say from the use of word 'may' by notice in writing direct the owner as well as the other person who may be in possession to surrender or deliver possession thereof, does not mean 'may' to be read as 'shall' or in all cases it is only after notice and opportunity of hearing possession has to be taken.

14. Coming to Section 3F, it is by virtue of the vesture from the declaration under Section 3D of the Act of the land on the Government they shall enter which can in continuation of 3B for preliminary purposes, now even for laying of the public roads or constructions for allied purposes

incidental to it Section 3G speaks of determination of amount payable as just compensation that is also reproduced with sub-sections 1 to 7 and same is to be read with Schedules I to IV and Sections 26, 31, 32, 38 & 105(3) of the Act, 2013 also for wherever required rehabilitation and resettlement and infrastructure facilities etc.,

15. Now the petitioners what more complaining is that Section 3G(3) is not complied with. So far as 3G(3) reproduced above concerned, it speaks that, before proceeding to determine the amount under sub-section (1) or (2) supra, the competent authority shall give a public notice published in two local newspapers, one of which will be in vernacular language inviting claims from all persons interested in the property. Herein also, at the cost of repetition, no personal notice is contemplated, but for, a public notice and not only the award, but also, the counter-affidavit and the enclosures speak such notification and paper publications in vernacular language on 15.10.2016. It is for that what the petitioners say they appeared on 26.10.2016 but the competent authority did not appear at the Panchayat office to conduct any enquiry, which is hardly believable as discussed supra, that too, when the counter-affidavit and the record including the award speaks mostly appeared i.e., about 51 persons and nobody objected and

from petitioner there was no participation much less by submitting any objections for the enquiry conducted on 26.10.2016 and thus the award was consequently passed. Once the Authorities fixed the date and stated and many persons appeared, but for, the writ petitioners, it need not be in specific words to state that it was on 26.10.2016, as date was fixed discussion on 26.10.2016, for not the counter contest of it was postponed to some other date there from and later no date fixed. Once the award speaks who were the persons present and participated from whom after hearing the enquiry to the extent necessary conducted, when petitioners did not participate, they cannot contend that they have not been given any personal notice or no enquiry conducted.

16. Regarding deposit or payment of the amount under Section 3H of the Act and the competent authorities powers are at par of the powers of the civil Court under Section 3(I) that no way require repetition.

17. Apart from the fact that for no objections filed for Section 3(1)(A) notification and Section 3(1)(D) declaration and as held by the Apex Court in Talson Real Estate (P) Ltd v. State of Maharashtra and others<sup>4</sup> where no objections under Section 5A filed after Section 4 pre-notification before

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<sup>4</sup> 2007 (13)SCC 186)

Section 6 declaration under the Land Acquisition Act, 1894, later cannot be permitted to raise objections even for Section 6 declaration. Coming even to the several objections raised by the petitioners if had they been given opportunity of personal service or in alleging no enquiry conducted on 26.10.2016 and such enquiry had really been conducted, they could have been presented material for their entitlement to the just compensation as contemplated to be determined under Section 3G(7) of the Act with reference to 3G (1) to (5) of the Act concerned, the very provision covered by Section 3G (6) and (7) are taking care of the petitioners interest, as it is not only the competent authority, but also, the arbitrator (who is notified as the Collector to exercise powers for the respective Districts) have to consider and it is not to treat the arbitration application to the Collector as if an appeal against the award of the competent authority. Thereby, whatever the objections they can raise for the entitlement of fair compensation, they are entitled to raise before the Collector by filing arbitration application as contemplated by Section 3(1)(G)(6) of the Act, 1956 and the Collector is bound to consider not only from that provision but also by virtue of the observations herein to their objections to the entitlement of fair compensation to be re-fixed if necessary

any of more than what was fixed by the competent authority. It is also needless to say further aggrieved if any against such arbitration award of the Collector to be passed with reference to Section 3G(6) of the Act, there is a provision under Section 34 of the Arbitration Act to maintain an application before the District Judge concerned and the legal position on this aspect is also very clear from the observation of this Court in *Nekkalapudi Ramakrishna Pratap v. District Collector-cum-Arbitrator, West Godavari District, A.P. and another*<sup>5</sup> and the order in W.P.No.8174 of 2017 operative portion reproduced above also reiterated in W.P.No.44530 of 2016 and batch. Even coming to the expression in *Mahmood Bind Mohammed (supra)*, it is observed contextually therein that even there is any discrepancy in the report of the extent concerned that cannot itself be a ground to set aside the award. Further the Apex Court in *Managing Director, Haryana State Industrial Development Corporation and others v. Hari Om Enterprises*<sup>6</sup> held that larger public purpose will prevail over individual interests and out of two remedies available in alternative to grant, the harsher one should not be restored to. Further more, the latest expression of the Apex Court in *Muniraj R. Kurmi and others v. State of Maharashtra*

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<sup>5</sup> 2006(1) ALD 511

<sup>6</sup> 2009(16) SCC 2008

and others <sup>7</sup> (3 Judge Bench) also in that line of larger public interest to prevail over interest to of sectiono f persons in directing 74 persons not vacated to vacate as already 357 persons consented for development and 229 persons vacated, saying they cannot continue in possession to interdict the development process.

18. Having regard to the above, the Writ Petitions are disposed of by left open all the objections the petitioners can raise in relation to their entitlement of fair compensation by permitting to file application under Section 3G(6) of the Act r/w the Arbitration Act, 1996 before the Collector concerned and the Collector concerned shall pass a detailed order, leave about further remedy under Section 34 of the Arbitration Act also available before the District Court concerned to impugn any award of the Collector. It is needless for to say, any super-structures, to which the petitioners are entitled, it is left open for compensation purpose to cover the same by video coverage with photos and submit the same also before the Collector and it is for the Collector to decide the genuineness there from with any report of verification to call for and for that and this Court need not go into the disputed factual aspects of any alleged super structures are there and if so what are its worth.

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<sup>7</sup> 2017(5) SCC 2004

Consequently, miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

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Dr. B. SIVA SANKARA RAO, J

Date:11-07-2017  
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L.R Copy to be marked - yes



HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION Nos.9920, 9921, 10189 and 12389 of 2017

DATE: 11.07.2017



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\* HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO  
+ WRIT PETITION Nos.9920, 9921, 10189 and 12389 of 2017

11-07-2017

# Between:

W.P.No.9920 of 2017:

Nerajala Nageswara Rao and another ... Petitioners

Vs.

1.Union of India and three others ... Respondents

W.P.No.9921 of 2017:

Revuru Ramana Reddy and 5 others ... Petitioners

Vs.

1.Union of India and three others ... Respondents

W.P.No.10189 of 2017:

Chilaka Venkata Subba Reddy and 4 others ... Petitioners

Vs.

1.Union of India and two others ... Respondents

W.P.No.12389 of 2017:

Challa Venkata Subba Reddy ... Petitioner

Vs.

1.Union of India and two others ... Respondents

Counsel for the petitioner : Sri K.Ramesh Babu

Counsel for the Respondents: Sri S.S.Varma, Standing Counsel for Highways

Learned Government Pleaders for Land Acquisition and Revenue

<Gist :

>Head Note:

? Cases referred:

<sup>1</sup> 2012(2) ALD 387

<sup>2</sup> 2005(13) SCC 477

<sup>3</sup> 2017(3) ALD 421

<sup>4</sup> 2007 (13)SCC 186)

<sup>5</sup> 2006(1) ALD 511

<sup>6</sup> 2009(16) SCC 2008

<sup>7</sup> 2017(5) SCC 20





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

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WRIT PETITION Nos.9920, 9921, 10189 and 12389 of 2017

W.P.No.9920 of 2017:

Nerajala Nageswara Rao and another ... Petitioners

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W.P.No.12389 of 2017:

Challa Venkata Subba Reddy ... Petitioner

Vs.

1.Union of India and two others ... Respondents

DATE OF JUDGMENT PRONOUNCED: 11.07.2017

SUBMITTED FOR APPROVAL:

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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



