

**THE HON'BLE SRI JUSTICE A.V. SESA SAI**

**WRIT PETITION No.8913 OF 2017**

**ORDER:**

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue Writ, order or direction preferably Writ of Mandamus, declaring the Award No.01/2016-17 (B. 1651/2007), dated 23/05/2016 passed by the 4<sup>th</sup> Respondent to the extent it concerns the acquisition of the lands of the Petitioners situated at Vuyyuru (V & M), Vijayawada for the purpose of widening of NH-9 as illegal, arbitrary, violative of principles of natural justice and Articles 14, 21 & 300-A of the Constitution of India and consequently set aside the entire acquisition proceedings and the Award dated 23/05/2016 and further direct the Respondents to initiate acquisition proceedings afresh under Section 24(2) of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 and pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Heard the learned counsel for the petitioners, learned Government Pleader for Land Acquisition for the respondents 3 and 4 and Sri S.S.Varma, learned standing counsel for the 2<sup>nd</sup> respondent.

3. In the present writ petition, petitioners are obviously not satisfied with the quantum of compensation awarded by the

competent authority under the provisions of National Highways Act, 1956, by virtue of the award under challenge. It is the specific contention of the learned counsel for the petitioners that the respondent authorities did not fix the compensation in accordance with the provisions of the National Highways Act and the respondent authorities did not take into consideration the market value as on the date of publication of notification under Section 3(a) read with the provisions of Act 30 of 2013 and failed to take into consideration the market value in accordance with the said provisions of law.

4. On the otherhand, it is submitted by the learned standing counsel and the learned Government Pleader that in view of the availability of alternative remedy available to the petitioners under Section 3G of the National Highways Act, 1956, the present writ petition is not maintainable and it is open for the petitioners herein to make an application for enhancement of the compensation and for reference to the Arbitrator. Section 3G of the National Highways Act, reads as under:

**“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.”*

5. In view of the above provision of law, which facilitates the petitioners herein to approach the arbitrator in the event of not being satisfied with the quantum of compensation awarded by the competent authority, this Court is not inclined to entertain the present writ petition. However, it is open for the petitioners herein to file an application under the provisions of Section 3G(5) of the National Highways Act, for enhancement of the compensation for reference to the Arbitrator. It is also made clear that it is open for the petitioners herein to raise all the grounds before the arbitrator including those touching the applicability of Act 30 of 2013.

6. With the above observation, this writ petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

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**A.V.SESHA SAI, J**

**15.03.2017**  
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