

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

**WRIT PETITION Nos.38, 40, 41, 42, 48, 57, 59, 347, 350,
353, 356, 358, 363, 995, 1004, 1543 of 2014, 38058,
38080, 39162, 39163 and 38610 OF 2013**

COMMON ORDER :

Since the issue involved in all these writ petitions and the parties are one and the same, they are being heard together and disposed of by this Common Order.

2. Petitioners in all these writ petitions are challenging the G.O.Ms.No.280 Home (PS&C) Department, dated 12.12.2013 wherein and whereby the objections filed by the petitioners under Section 5-A of Land Acquisition Act, 1984, opposing the proposal for acquisition of lands belonging to petitioners situated in Survey Nos.362, 373 and 374, situated in Manchirevula Village of Rajendranagar Mandal, Ranga Reddy District, are rejected and decided to proceed for acquisition of land in accordance with notification which was earlier issued under Section 4(1) of the Land Acquisition Act, 1894, vide G.O.Ms.No.13, Home PS&C Department dated 19.01.2013.

3. The petitioners are the owners of different extents of land in Survey Nos.362, 373 and 374, situated at Manchirevula Village, Rajendranagar Mandal, Ranga Reddy District, having purchased the same under registered sale deeds from the erstwhile owner Sri Md.Sharfuddin. The entire land is an agricultural land and subsequent to the purchase of the subject land all the petitioners have been in absolute possession without

any interruption and continuing the horticultural activities thereon. While the matter stood thus, petitioners came to know through their neighbour that a notice dated 27.04.2005 was issued by the District Collector, Ranga Reddy District, Lakdikapool, Hyderabad, informing him that in respect of the land owned by the said owner, award enquiry is being conducted under the provisions of the Land Acquisition Act and he was required to be present at the office of the Spl. Deputy Collector on 07.05.2005. On enquiries petitioners came to know the notification under Section 4(1) of the Land Acquisition Act, vide G.O.Rt.No.225, dated 23.02.2004, which was published in the Gazette on 08.03.2004, proposing to acquire Ac.10.10 guntas of land in Survey Nos.362, 366, 373 and 374 for the purpose of establishing a Commando Training Centre for IGP Grey Hounds. Simultaneously, a draft declaration under Section 6 of the Act dated 03.03.2004 was issued invoking the urgency clause under Sec.17(4) of the Act by dispensing with enquiry under Section 5(A) of the Act and was also published on 09.03.2004.

4. Having come to know about the said proceedings and having found that their names have not been included either in the notification under Section 4(1) or the declaration under Section 6, the petitioners filed Writ Petition No.10872 of 2005 on the ground that the petitioners have not been put on notice and also on the ground that the decision of the Government in dispensing with the enquiry under Section 5-A by invoking

urgency clause under Section 17(4) of the Act, is arbitrary and illegal and consequently sought for the relief of setting aside the said draft notification and draft declaration. The said Writ Petition was disposed of and the part of notification impugned dispensing with enquiry under Section 5-A of the Act is quashed and the 2nd respondent therein-Collector, is directed to hold an enquiry under Section 5-A of the Act by giving an opportunity to the petitioners.

5. Pursuant to the orders passed in WP.No.10872/2005, petitioners submitted detailed objections under Section 5-A of the Act. While the things stood thus, the Government issued G.O.Ms.No.902 (M.A. & U.D. (M1) Dept., dated 31.12.2007 for the purpose of regularizing unapproved layouts with a view to bring all unplanned areas into the fold of planned development and to provide basic facilities in various areas so as to promote over all integrated area city level development and a better quality of life for the citizens. In response to the said scheme, the petitioners submitted applications for regularization of their lands. But the same were rejected vide letter dated 28.12.2008 on the ground that the subject lands were under acquisition. Challenging the same, petitioners filed writ petitions and this Court allowed those writ petitions in WP.Nos.13705 of 2009 & batch on 09.12.2009 and it is declared that the land of petitioners in Survey Nos.362, 366, 373 and 374 is no longer under acquisition and the HMDA is directed to process the

applications of the petitioners in accordance with law and pass orders within a period of two months. But, instead of positively considering the applications of the petitioners for regularisation in view of the observations made by this Court, rejection memo dated 17.04.2007 was issued. The respondents also issued draft declaration under Section 6 of the Act without following law and orders of this Court dated 09.12.2009. Aggrieved by the same, petitioners filed Contempt Case in CC.No.979 of 2010, pursuant to which G.O.Ms.No.200, dated 03.08.2011 was issued withdrawing the G.O.Ms.No.91, dated 17.04.2011 and recording the said aspect the Contempt Case was closed.

6. Thereafter, the Government has filed batch of Writ Appeals bearing No.993/2010 & batch and same were dismissed holding that the appellants cannot be said to have remained in possession of the land which is the subject matter of notification under Section 4(1) of the Act dated 08.03.2004. After that the petitioners along with co-owners have filed applications for regularization in terms of G.O.Ms.No.902, dated 31.12.2007, pursuant to which the plots of petitioners have been regularised vide proceedings dated 10.05.2011. Subsequently, once again a draft notification under Section 4(1) of the Act, dated 19.01.2013, was published in Eenadu dated 30.01.2013 and enquiry under Section 5(A) of the Act was sought to be conducted, for which petitioners filed detailed objections by raising several grounds. But, without considering the said

objections the 1st respondent issued the impugned Memo vide G.O.Ms.No.280, Home (PS&C) Department, dated 12.12.2013. Aggrieved by the notification dated 19.01.2013 under Section 4(1) of the Act and G.O.Ms.No.280, dated 12.12.2013, present writ petitions are filed.

7. Learned Government Pleader for Home and Learned Government Pleader for Land Acquisition filed counters and submits that these counters are common in all writ petitions.

8. Counters are filed justifying the acquisition and reiterating the contents in the impugned order, referring to the remarks of the requisition department as well as Land Acquisition Department by referring to the objections raised by the petitioners.

9. Heard Sri Vedula Venkata Ramana, learned Senior Counsel appearing for the petitioners in WP.No.38610 of 2013 and Sri D.Jagan Mohan Reddy, learned counsel appearing for petitioners in other writ petitions, who submits that the 1st respondent passed orders without application of mind and there is no consideration of the objections raised by the petitioners which is a valuable right conferred under Section 5-A of the Act. The petitioners cannot be deprived of their valuable rights to property. The provisions of Land Acquisition Act being confiscatory in nature, the same have to be followed strictly in true spirit before depriving the person

of his property. He submits that except referring to the remarks of the requisition and acquisition departments, the Government has not adverted to the objections raised by the petitioners. The 1st respondent simply carried away by remarks of the requisition and acquisition departments, passed impugned order. Both the learned counsel submits that already Ac.340.00 of land is occupied by the Grey Hounds Commando Training Centre; and that when there was a specific objection raised that there is no necessity beyond the land already availed by the Training Centre, there is no plausible answer forthcoming from the respondents. It is also submitted that the purpose mentioned for acquisition of subject land for public purpose is vague. Having acquired Acs.340.00 of land, it does not specifically mention the reason for acquiring the subject land belonging to petitioners again. They further submit that the respondents cannot acquire the subject land for any future purposes.

10. It is further submitted that when petitioners raised objection (objection No.9) stating that the noise produced by usage of weapons i.e. AK-47 and SLR weapons, is highly detrimental, injurious and terrifying the wild life in the reserve forest existing abutting the GHCTC where there are several habitats, protected wild life species i.e. Deer Park established, the requisition department as well as acquisition department brushed aside the said objection.

11. In the proceedings dated 05.10.2013 issued by the Forest Department it is stated that the Divisional Forest Officer, WLM, Hyderabad submitted a report stating that the Grey Hounds firing range is situated in about 500 Meters away from MNP, Chilkur and the sounds from the range are heard regularly in MNP, Chilkur area; that he opined that the sounds from the firing range would disturb the wild life in the National Park; and that to assess the gravity and intensity of sound disturbance to wild life an expert institution like Wildlife Institution of India maybe entrusted. Though the aforesaid proceedings were filed, there is no opinion sought from the expert department, which goes to show that there is no proper application of mind on the part of the 1st respondent.

12. Learned counsel for petitioners, in support of their contentions, relied on the Judgments rendered by the Hon'ble Apex Court in ***Hindustan Petroleum Corporation Limited v. Darius Shapur Chenai and others***¹; ***Usha Stud and Agricultural Farms Private Limited and others v. State of Haryana and others***²; ***Union of India v. Shiv Raj and Others***³ and ***Kedar Nath Yadav v. State of West Bengal and Others***⁴.

¹ (2005) 7 Supreme Court Cases 627

² (2013) 4 Supreme Court Cases 210

³ (2014) 6 Supreme Court Cases 564

⁴ (2017) 11 Supreme Court Cases 601

13. On the other hand Government Pleader for Home and Land Acquisition appearing for respondents 1 and 4 submits that petitioners were issued proper notice by the 4th respondent and their objections were considered and after elaborate hearing a report was submitted by the 4th respondent and taking into the same, the 1st respondent passed impugned orders. While reiterating the contents in the counter affidavit, they submit that the purpose is specific and the subject land is required for establishing a Commando Training Centre for Gray Hounds which is a very important essential institution. While passing the impugned orders the objections of the petitioners as well as report submitted by the 4th respondent were considered, as such, no interference is called for.

14. In view of rival contentions the points that arise for consideration are

i) Whether the impugned G.O is valid and has been passed after giving an opportunity of hearing to the petitioners in accordance with Section 5-A of the Land Acquisition Act.

ii) Whether the notification under Section 4(1) of the Act needs to be quashed.

15. Before considering the contentions of both parties, it is necessary to refer to decisions rendered by the Hon'ble Apex

Court while dealing with the scope of Section 5-A of the Land Acquisition Act, 1894.

16. In ***Kedar Nath Yadav v. State of West Bengal and Others (supra-4)*** the Supreme Court after considering several Judgments, at paras 96, 97, 98, 141, 144 and 146, held as follows;

96. In *Shri Mandir Sita Ramji v. NCT of Delhi*⁴⁸, a Constitution Bench of this Court has held that it is the mandatory duty cast upon the Collector to follow the provision of Section 5-A(2) of the LA Act as under: (SCC p. 300, para 5)

“5. The learned Single Judge⁴⁹ allowed the writ petition on the basis that the appellant had no opportunity of being heard by the Collector under Section 5-A. The duty to afford such an opportunity is mandatory. A decision by the Government on the objection, when the Collector afforded no opportunity of being heard to the objector, would not be proper. The power to hear the objection under Section 5-A is that of the Collector and not of the appropriate Government. It is no doubt true that the recommendation of the Land Acquisition Collector is not binding on the Government. The Government may choose either to accept the recommendation or to reject it; but the requirement of the section is that when a person’s property is proposed to be acquired, he must be given an opportunity to show cause against it. Merely because the Government may not choose to accept the recommendation of the Land Acquisition Collector, even when he makes one, it cannot be said that he need not make the recommendation at all but leave it to the Government to decide the matter. In other words, the fact that the Collector is not the authority to decide the objection does not exonerate him from his duty to hear the objector on the objection and make the recommendation.”

(emphasis supplied)

97. In *Babu Ram v. State of Haryana*⁵⁰, this Court observed as under: (SCC p. 122, para 30)

*“30. As indicated hereinabove in the various cases cited by Mr Pradip Ghosh and, in particular, the decision in *Krishan Lal Arneja case*⁵¹, in which reference has been made to the observations made by this Court in *Om Prakash case*⁵², it has been emphasised that a right under Section 5-A is not merely statutory but also has the flavour of fundamental rights under Articles 14 and 19 of the Constitution. Such observations had been made in reference to an observation made in the earlier decision in *Gurdial Singh case*³⁸ and keeping in mind the fact that right to property was no longer a fundamental right, an observation was made that even if the right to property was no longer a fundamental right, the observations⁵⁶³ relating to Article 14 would continue to apply in full force with regard to Section 5-A of the LA Act.”*

(emphasis supplied)

98. From a perusal of the proceedings before the Collector, which are made available to this Court, it becomes clear that the same have been rejected without assigning any clear reasons or application of mind. Thus, the report of the Collector is not a valid report in the eye of the law. The State Government has mechanically accepted the same without application of mind independently before issuing the notification under Section 6 of the LA Act declaring that the lands are required for establishment of automobile industry by TML.

141. In *Raghubir Singh Sehrawat v. State of Haryana*²⁵ it was observed thus: (SCC p. 805, para 39)

“39. In this context, it is necessary to remember that the rules of natural justice have been ingrained in the scheme of Section 5-A with a view to ensure that before any person is deprived of his land by way of compulsory acquisition, he must get an opportunity to oppose the decision ⁷¹⁸ of the State Government and/or its agencies/instrumentalities to acquire the particular parcel of land. At the hearing, the objector can make an effort to convince the Land Acquisition Collector to make recommendation against the acquisition of his land. He can also point out that the land proposed to be acquired is not suitable for the purpose specified in the notification issued under Section 4(1). Not only this, he can produce evidence to show that another piece of land is available and the same can be utilised for execution of the particular project or scheme.”

144. In *Gojer Bros. (P) Ltd. v. State of W.B.*¹¹⁴ this Court observed: (SCC pp. 671, 674 & 675, paras 18, 19 & 21)

“18. In *Surinder Singh Brar v. Union of India*²⁶, this Court extensively considered the report prepared by the Land Acquisition Officer and the decision taken by the administration of the Union Territory of Chandigarh and observed: (SCC p. 450, para 68)

‘68. A cursory reading of the reports of the LAO may give an impression that he had applied his mind to the objections filed under Section 5-A(1) and assigned reasons for not entertaining the same, but a careful analysis thereof leaves no doubt that the officer concerned had not at all applied his mind to the objections of the landowners and merely created a facade of doing so. In the opening paragraph under the heading “Observations”, the LAO recorded that he had seen the revenue records and conducted spot inspection. He then reproduced the Statement of Objects and Reasons contained in the Bill which led to the ⁷²² enactment of the Punjab New Capital (Periphery) Control Act, 1952 and proceed to extract some portion of reply dated 31-7-2006 sent by the Administrator to Surinder Singh Brar.’

19. In *Usha Stud and Agricultural Farms (P) Ltd. v. State of Haryana*³⁵, the Court reiterated the propositions laid down in *Raghubir Singh Sehrawat case*²⁵ and *Kamal Trading (P) Ltd. v. State of W.B.*¹¹² and observed: (*Usha Stud case*³⁵, SCC p. 227, para 30)

‘30. The ratio of the aforesaid judgments is that Section 5-A(2), which represents statutory embodiment of the rule of audi alteram partem, gives an opportunity to the objector to make an endeavour to convince the Collector that his land is not required for the public purpose specified in the notification issued under

Section 4(1) or that there are other valid reasons for not acquiring the same. That section also makes it obligatory for the Collector to submit report(s) to the appropriate Government containing his recommendations on the objections, together with the record of the proceedings held by him so that the Government may take appropriate decision on the objections. Section 6(1) provides that if the appropriate Government is satisfied, after considering the report, if any, made by the Collector under Section 5-A(2) that particular land is needed for the specified public purpose then a declaration should be made. This necessarily implies that the State Government is required to apply mind to the report of the Collector and take final decision on the objections filed by the landowners and other interested persons. Then and then only, a declaration can be made under Section 6(1).'

21. In our view, non-consideration of the objections filed under Section 5-A(1) has resulted in denial of effective opportunity of hearing to the appellant. The manner in which the Joint Secretary to the Government approved the recommendation made by the Land Acquisition Collector favouring acquisition of the property is reflective of total non-application of mind by the competent authority to the recommendation made by the Land Acquisition Collector and the report prepared by him."

146. In *Sharma Agro Industries v. State of Haryana*¹¹⁵, it was observed: (SCC pp. 349-51, paras 14-15)

"14. The Land Acquisition Collector in the present case has recommended to the State Government that the land covered in these civil appeals need not be acquired. On our direction, Mr Manjit Singh, the learned Additional Advocate General representing the State of Haryana has made available the record pertaining to acquisition of the lands involved in these appeals. The following is the relevant translated extract of the recommendations made by the Land Acquisition Collector:

'On 16-1-2003 I visited the spot concerned for the purpose of inspection; with the Kanoongo and Patwari belonging to the Revenue Department. A seller has been established since 1981 in Khasra Nos. 3959, 3960, 3961/1, 3961/2, 3963, 3964, 3965, 3966/1, 3967, 3968 with a total area of 29 bighas 11 biswas. The Government of Haryana, Department of Industry, had also issued a licence to the seller for this industry, and the same is operative till date. An old factory is established in Khasra Nos. 3966/2, 3971/2, with a total area of 1 bigha 11 biswas. Small-scale industry licences established in Khasra Nos. 4000, 4001/2, 4001/1/1, 4001/1/2, 4001/1/3, 4002/1, 4002/2 where old factories along with lantered houses have been constructed. When the land was acquired in 1986 in Sector 3, the abovementioned khasra numbers were excluded from the acquisition process. Hence, the abovementioned land may be released, measuring total of 37 bighas and 13 biswas. The above numbers are left over for acquirement.

sd/-

Land Acquisition Collector, Karnal'

The State Government has neither accepted the recommendations of the Land Acquisition Collector nor assigned any reasons before issuing  declaration notification under Section 6 of the Act. The same is sought to be justified by the

learned Additional Advocate General contending that it is the prerogative of the Government to either accept or reject the recommendations of the Land Acquisition Collector with respect to the proposed land to be acquired by issuing declaration notification under Section 6 of the Act. This contention of the learned Additional Advocate General is wholly untenable in law in view of the decisions referred to above. However, after advertent to the decisions of this Court in the above case and in the cases referred to supra, the said report of the Land Acquisition Collector was neither accepted by the Government nor did the Government assign any reasons before issuing the declaration notification by holding that the land is required for public purpose, we are of the view that the acquisition proceedings are vitiated in law.

15. The learned Senior Counsel for the appellants has rightly placed reliance upon the decision of this Court in *Vinod Kumar v. State of Haryana*¹¹⁶, wherein this Court referred to the legal principle laid down in *Women's Education Trust v. State of Haryana*¹¹⁷, and has held as under: (SCC p. 119, para 35)

‘35. What is most surprising is that the High Court¹¹⁸ did not even deal with the issue relating to application of mind by the Government to the report submitted by the Land Acquisition Collector under Section 5-A(2) along with his recommendations. The documents produced before the High Court and this Court do not show that the State Government had objectively applied mind to the recommendations made by the Land Acquisition Collector and felt satisfied that the land in question deserves to be acquired for the purpose specified in the notification issued under Section 4(1). The record also does not contain any indication as to why the State Government did not consider it proper to accept the recommendations of the Land Acquisition Collector. Therefore, there is no escape from the conclusion that the impugned acquisition is ultra vires the provisions contained in Section 6 of the Act.’”

17. In ***Hindustan Petroleum Corporation Limited case (supra 1)*** at paras 8, 9 and 16, the Supreme Court held as follows;

8. The conclusiveness contained in Section 6 of the Act indisputably is attached to a need as also to the purpose and in this regard ordinarily, the jurisdiction of the court is limited but it is equally true that when an opportunity of being heard has expressly been conferred by a statute, the same must scrupulously be complied with. For the said purpose, Sections 4, 5-A and 6 of the Act must be read conjointly. The court in a case, where there has been total non-compliance or substantial non-compliance with the provisions of Section 5-A of the Act, cannot fold its hands and refuse to grant a relief to the writ petitioner. Sub-section (3) of Section 6 of the Act renders a declaration to be a conclusive evidence. But when the decision-making process itself is in question, the power of judicial review can be exercised by the court in the event the order impugned suffers from well-known principles viz. illegality, irrationality

and procedural impropriety. Moreover, when a statutory authority exercises such enormous power it must be done in a fair and reasonable manner.

9. It is trite that hearing given to a person must be an effective one and not a mere formality. Formation of opinion as regards the public purpose as also suitability thereof must be preceded by application of mind as regards consideration of relevant factors and rejection of irrelevant ones. The State in its decision-making process must not commit any misdirection in law. It is also not in dispute that Section 5-A of the Act confers a valuable important right and having regard to the provisions contained in Article 300-A of the Constitution it has been held to be akin to a fundamental right.

16. However, considerations of the objections by the owner of the land and the acceptance of the recommendations by the Government, it is trite, must precede a proper application of mind on the part of the Government. As and when a person aggrieved questions the decision-making process, the court in order to satisfy itself as to whether one or more grounds for judicial review exist, may call for the records whereupon such records must be produced. The writ petition was filed in the year 1989. As noticed hereinbefore, the said writ petition was allowed. This Court, however, interfered with the said order of the High Court and remitted the matter back to it upon giving an opportunity to the parties to raise additional pleadings.

18. In *Union of India v. Shiv Raj case (supra 3)* the Apex Court at paras 12 to 16 and 36, held as follows;

12. The rules of natural justice have been ingrained in the scheme of Section 5-A of the 1894 Act with a view to ensure that before any person is deprived of his land by way of compulsory acquisition, he must get an opportunity to oppose the decision of the State Government and/or its agencies/instrumentalities to acquire the particular parcel of land.

13. Section 5-A(2) of the 1894 Act, which represents statutory embodiment of the rule of audi alteram partem, gives an opportunity to the objector to make an endeavour to convince the Collector that his land is not required for the public purpose specified in the notification issued under Section 4(1) of the 1894 Act or that there are other valid reasons for not acquiring the same. Thus, Section 5-A of the 1894 Act embodies a very just and wholesome principle that a person whose property is being or is intended to be acquired should have a proper and reasonable opportunity of persuading the authorities concerned that acquisition of the property belonging to that person should not be made.

14. On the consideration of the said objection, the Collector is required to make a report. The State Government is then required to apply its mind to the report of the Collector and take final decision on the objections filed by the landowners and other interested persons. Then and then only, a declaration can be made under Section 6(1) of the 1894 Act.

15. Therefore, Section 5-A of the 1894 Act confers a valuable right in favour of a person whose lands are sought to be acquired. It is trite that hearing given to a person must be an effective one and not a mere formality. Formation of opinion as regard the public purpose as also suitability thereof must be preceded by application of mind having due regard to the relevant factors and rejection of irrelevant ones. The State in its decision-making process must not commit any misdirection in law. It is also not in dispute that Section 5-A of the 1894 Act confers a valuable important right and having regard to the provisions, contained in Article 300-A of the Constitution of India has been held to be akin to a fundamental right. Thus, the limited right given to an owner/person interested under Section 5-A of the 1894 Act to object to the acquisition proceedings is not an empty formality and is a substantive right, which can be taken away only for good and valid reason and within the limitations prescribed under Section 17(4) of the 1894 Act.

16. The Land Acquisition Collector is duty-bound to objectively consider the arguments advanced by the objector and make recommendations, duly supported by brief reasons, as to why the particular piece of land should or should not be acquired and whether the plea put forward by the objector merits acceptance. In other words, the recommendations made by the Land Acquisition Collector should reflect objective application of mind to the entire record including the objections filed by the interested persons. [See *Munshi Singh v. Union of India*⁹, *Union of India v. Mukesh Hans*¹⁰, *Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai*¹¹, *Anand Singh v. State of U.P.*¹², *Dev Sharan v. State of U.P.*¹³, *Raghubir Singh Sehrawat v. State of Haryana*¹⁴, *Usha Stud and Agricultural Farms (P) Ltd. v. State of Haryana*¹⁵ and *Women's Education Trust v. State of Haryana*¹⁶.]

19. In view of law laid down by the Hon'ble Supreme Court, it is necessary to provide an opportunity to exercise statutory right conferred under Section 5-A of the Land Acquisition Act by following the procedure envisaged under the provisions of the Act strictly before divesting with the property. Article 300 A of Constitution of India provides that no person shall be deprived of his property except according to law. Then it has to be tested whether respondents followed the law in acquiring the property of petitioners. Whether respondents have considered the objections of the petitioners in terms of Section 5-A of the Act has to be examined.

20. Admittedly, G.O.Ms.No.280, Home (PS&C) Department, dated 12.12.2013, is said to be the order passed under Section 5 A of the Land Acquisition Act. In the said G.O. paragraphs 1 to 3 reiterates the facts leading to the issuance of notification under Section 4(1) of the Act. Paragraph-4 speaks about submission of Report under Section 5-A of the Act by the Special Deputy Collector, LA (Industries) along with the objections raised by the affected parties and necessary remarks thereon. Para-5 of the said G.O. reads as follows;

“5. Government, have examined carefully each of the objections/claims filed by the interested parties against acquisition of the land to an extent of 9.10 acres in Sy.No.362, 373 and 374 at Manchirevula of Ranga Reddy District for construction of Police Commando Training Centre with reference to the reports and records made available and the objections/claims of the interested parties are hereby rejected for the reasons/grounds specified in Column Nos.5,6 and 7 of the Annexure appended.”

21. The annexure appended to the G.O.Ms.No. 280 provides serial number in the first column, the name of the claimant in second column, Survey number of the subject land in third column, Gist of the claim/objection made by them in fourth column, Column No.5 provides for remarks of the Requisition Department, Column No.6 provides remarks of the Land Acquisition Officer and Column No.7 provides remarks of the Collector and Column No.8 provides the decision of the Government on each objection. Though Section 5-A of the Act states that the decision of the appropriate Government on the

objection shall be final, the Government states that the objections of the petitioners are rejected considering the objections with reference to the remarks made by the Requisition Department, Acquisition Department and the Collector at column NOs.5, 6 and 7.

22. As rightly pointed out by the learned Senior Counsel in respect of objection No.9 the Government simply rejected the objection, though it is pointed out by the petitioners in the documents filed along with reply affidavit that as per the report of the Divisional Forest Officer, to assess the gravity and intensity of sound disturbance to wild life, the matter has to be referred expert body. But, nothing is mentioned in the remarks column of the Collector nor the Government referred to the same.

23. The objection raised by the petitioners at objection No.2 of the impugned G.O., with regard to the fact that how the acquisition could be completed with Ac.1.00 of land in the middle of the land that is sought to be acquired is exempted, was also not properly answered by the respondents even in the counter.

24. It is to be seen that when the impugned order is tested on the touch stone of the principles laid down by the Apex Court in the aforesaid Judgments, this Court is of the opinion that the 1st respondent has not applied his mind while

dealing with the objections of the petitioners. There is no proper application of mind by the 1st respondent. Though the purpose for acquisition of land is stated as public purpose, having already acquired the land of Acs.340-00, the training centre still requires further land of Ac.9.10 guntas are the matters which are required to be considered by the 1st respondent before passing orders.

25. Though respondents tried to support the impugned order in the counter affidavit, but the same cannot be considered as the order itself should speak and reasons in support of the order cannot be supplemented by way of counter affidavit. (See **Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi & others [(1978) 1 Supreme Court Cases 405]**).

26. As far as challenge to notification under Section 4(1) of the Act is considered, the same gives details of the land like survey number, extent acquired and purpose is also mentioned, as such, it cannot be said that the same is vague. When notification under Section 4(1) and declaration under Section 6(1) of the Act in respect of same land was questioned by pattadar in first instance in W.P.No.10872 of 2005, part of the notification impugned dispensing with the enquiry under Section 5-A of the Act, is only quashed and directed to hold enquiry under Section 5-A of the Act, as such, challenge to the same fails.

In view of the above facts and circumstances, writ petitions are allowed to the extent of setting aside G.O.Ms.No.280, Home (PS&C) Department, dated 12.12.2013, issued by the 1st respondent.

As a sequel thereto, miscellaneous petitions, if any, pending, shall stand closed.

A.RAJASHEKER REDDY, J

08.03.2018
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