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APHC010085842019

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3333]**
(Special Original Jurisdiction)

THURSDAY, THE 19th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 3796/2019

Between:

1. K S C R AO, S/O. GANGA RAJU, AGED ABOUT 54 YEARS, OCC. BUSINESS, R/O. D.NO.1-9, ACHANNAPALEM, NALLAJERLA MANDAL, WEST GODAVARI DISTRICT.

...PETITIONER

AND

1. THE STATE OF AP, REP. BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF REVENUE (LAND ACQUISITION), SECRETARIAT BUILDINGS, AMARAVATI.
2. THE ARBITRATOR CUM DISTRICT COLLECTOR, WEST GODAVARI DISTRICT, ELURU.
3. THE COMPETENT AUTHORITY FOR LANDACQUISITION CUM REVENUE DIVISIONAL OFFICER, ELURU REVENUE DIVISION, WEST GODAVARI DISTRICT.
4. THE PROJECT DIRECTOR, NHAI, PIU FLAT NO.21, TEACHERS COLONY, ABOVE SBH, VIJAYAWADA-8.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased topleased to issue an appropriate writ, order or direction more particularly one in the nature of Mandamus or Any other appropriate writ declaring Impugned Order vide R.Dis.No.e-1576373/2018/G1, dt.15-01-2019, passed by the Respondent as it is confirmed the Award of the 3 Respondent vide Award 15/2017, NH 16(EGK-S.H.107) Dt. 25-04-2017 there by compensation of the petitioner is not considered on par with the adjacent/neighbour land owner for the same notification (even though both are converted the lands on the same date, 30-11-2007 by the competent authority) is bias, arbitrary, illegal and violation of Articles 14, 21 and 300-A of the Constitution of India by directing the Respondents to pay compensation to the petitioner on par with the neighbour's land owner in the interest of justice

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to suspendthe impugned order vide R.Dis. No. e-1576370/2018/G1, dated 15-01-2019 passed by the 2nd respondent as it is confirmed the award of the 3rd respondent vide award 15/2017, NH 16 (EGK-S.H.107) dated 25-04-2017 pending disposal of the above writ petition.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to grant leave to file the reply affidavit to the counter affidavit filed by the respondent No.3 in WP No.3796 of 2019 with costs and pass

Counsel for the Petitioner:

1. B CHANDRA SHEKHAR

Counsel for the Respondent(S):

1. GP FOR LAND ACQUISITION (AP)

2. S S VARMA (SC FOR NHAI)

The Court made the following:

ORDER:

This writ petition came to be filed under Article 226 of the Constitution of India, seeking the following prayer:

> "…to issue an appropriate writ, order or direction more particularly one in the nature of Mandamus or Any other appropriate writ declaring Impugned Order vide R.Dis.No.e-1576373/2018/G1, dt.15-01-2019, passed by the Respondent as it is confirmed the Award of the 3 Respondent vide Award 15/2017, NH 16(EGK-S.H.107) Dt. 25-04-2017 there by compensation of the petitioner is not considered on par with the adjacent/neighbour land owner for the same notification (even though both are converted the lands on the same date, 30-11-2007 by the competent authority) is bias, arbitrary, illegal and violation of Articles 14, 21 and 300-A of the Constitution of India by directing the Respondents to pay compensation to the petitioner on par with the neighbour's land owner in the interest of justice and pass…"

2. The petitioner claims to be the owner and possessor of the land admeasuring Acs.2.50 cents situated in R.S.No.607/1 of Nallajerla village, West Godavari district and in the year 2007, the petitioner got converted the land admeasuring Acs.1.00 cents for non-agricultural purpose, vide proceedings dated 30.11.2007.

3. While the matter stood thus, the 4th respondent issued notification dated 02.09.2016 under Section 3A of the National Highways Act, 1956 to acquire lands in Nallajerla village and mandal, West Godavari

district for widening/extending of existing 4 land road to 6 lane road, from Gundugolanu – Rajamahendravaram section of NH-16 from KM.15.700 to KM.50.500 of NH-16(EGK-S.H.107) on Gundugolanu – Rajamahendravaram section. The said notification was published vide notification S.O.2848(E), dated 02.09.2016 in the E.O. Issue of Section 3, Sub-Section (ii) of the Gazette of India Issue No.2152(E), dated 02.09.2016.

4. Pursuant to the said notification, the petitioner's land admeasuring Acs.1.36 cents was acquired by the authorities, however, the petitioner alleges that he was not paid compensation on par with his neighboring land owner. Vide award dated 25.04.2017 of the 3rd respondent, the petitioner was awarded Rs.83,93,552/- for acquiring the land admeasuring 5440 square meters, whereas, the neighbor of the petitioner is said to have been paid Rs.2,55,45,745/- for acquiring the land admeasuring 6145 square meters. Aggrieved by the same, the petitioner filed reference application before the 2nd respondent under Section 3G(5) of National Highways Act, 1956. The said reference application filed by the petitioner was rejected vide the impugned order dated 15.01.2019, aggrieved by which, the present writ petition is filed.

5. The 3rd respondent has filed a detailed counter admitting the fact that the petitioner is the owner of the land admeasuring Acs.2.50

cents situated in R.S.No.607/1 in Nallajerla village of Nallajerla mandal, out of which, the land admeasuring 5440 square meters situated in R.S.No.607/1B was acquired by the respondents for the purpose of widening of N.H.16(5). Out of the land admeasuring Acs.2.50 cents owned by the petitioner, Acs.1.00 cents was converted for the purpose of house site in the year 2007 vide proceedings dated 30.11.2007 and the remaining land to an extent of Acs.1.50 cents remained as agricultural land. The respondent authorities acquired Acs.1.36 cents from the petitioner which is agricultural land i.e., forms part of the remaining Acs.1.50 cents. The basic value of the proposed acquisition of land in R.S.No.607/1B is Rs.9,00,000/- per acre for agricultural lands, Rs.15,00,000/- per acre for road side agricultural land and Rs.24,20,000/- per acre for the lands which are fit for house sites.

6. It is further stated in the counter affidavit that for the land acquired from the petitioner i.e., admeasuring 5440 square meters, the average sale price is Rs.8,93,570/- and basic value is Rs.24,20,000/-, thus, the compensation is fixed @Rs.598/- per square meter under agricultural category; after applying the multiplication factor of 1.25 along with 100% solatium and 12% additional market value, Rs.83,93,552/- was awarded to the petitioner vide award dated 25.04.2017. Further, in the 2nd spell, an extent of 64 square meters was acquired from the petitioner vide

award bearing No.33/2017, dated 12.10.2017 in the agricultural category and Rs.2,28,955/- was paid to the petitioner. In relation to the contention of the petitioner that his neighboring land owner was paid drastically, it is stated that 6145 square meters of land in R.S.No.610/2B was acquired from Bommireddypalli Venkata Surya Prabhakara Rao; the entire land was converted in the year 2007 for non-agricultural purpose, as such, the basic value of the said land was considered as Rs.72,60,000/- per acre; after applying the necessary multiple factor, solatium and additional market value, he was paid Rs.2,55,45,745/-. It is further stated in the counter affidavit that the 2nd respondent has rightly rejected the appeal filed by the petitioner as there are no merits. If the petitioner has any grievance, he has to file O.P., before the competent District Court by filing L.A.O.P., which is a statutory appeal against the orders of an Arbitrator; without doing so, the petitioner has straight away approached this Court by way of the present writ petition. Hence, requested to dismiss the writ petition.

7. The petitioner filed a reply affidavit to the counter affidavit filed by the respondents wherein it is stated that the Sub-Registrar, Ananthapalli issued market value certificate on 15.09.2016 for agricultural land which was classified as dry situated in Sy.Nos.601/1, 607/2 and 607/3 to an extent of Acs.5.00 cents of Nallajerla village. In the said

certificate, unit rate per acre is noted as Rs.72,60,000/-. The respondent authorities published notification under Section 3A of the National Highways Act, 1956 on 02.09.2016 fixing the market value as Rs.24,20,000/- for the lands under the category fit for house sites. But, without considering the same, the respondent authorities considered the market value as Rs.24,20,000/- instead of Rs.72,60,000/- contrary to Section 3G, Sub-Section-7(a) of the National Highways Act, 1956. With regard to the averment of the respondents that the petitioner has to file Land Acquisition Original Petition before the District Court, the petitioner stated that when there is infringement on the part of the statutory authorities by way of not properly invoking the statutory provisions, the shade and shelter of Article 226 of Constitution of India is not a bar. Hence requested to set-aside the impugned order passed by the 2nd respondent dated 15.01.2019.

8. Heard Sri. B. Chandra Shekhar, learned counsel for the petitioner and learned Government Pleader for Land Acquisition.

9. During the course of arguments, learned counsel for the petitioner reiterated the averments filed in the affidavit in support of the writ petition. He further submitted that the petitioner's land to an extent of 5440 square meters in Sy.No.607/1B was acquired by the 3rd respondent by fixing the market value @Rs.598/- per square meter and thereafter,

applying the necessary multiplier as per law, an amount of Rs.83,93,552/- was paid to the petitioner. Similarly, the 3rd respondent acquired the adjacent land situated in Sy.No.610 and fixed the market value @Rs.1,794/- per square meter, which is untenable. The respondent authorities have considered the market value @Rs.1,794/- for the lands converted to non-agricultural purpose. Out of the land acquired from the petitioner i.e., 5440 square meters (~Acs.1.36 cents), the petitioner got converted Acs.1.00 cents to non-agricultural purpose. In such a case, the respondent authorities ought to have taken the market value for Acs.1.00 converted land @Rs.1,794/- per square meter instead of taking Rs.598/- per square meter which is applicable for agricultural land. He further contended that in the month of September, 2026, the Village Surveyor, Nallajerla village and mandal conducted a survey over the lands situated in R.S.No.607-1 of Nallajerla village and mandal; the Village Surveyor submitted a report on 15.09.2026 stating that out of the land admeasuring Acs.1.36 cents situated in R.S.No.607-1B, Acs.0.36 cents is agricultural land and Acs.1.00 cents is non-agricultural land as the same was converted vide proceedings dated 30.11.2007 of the Revenue Divisional Officer, Eluru. Hence requested to set-aside the impugned order and sought for a direction to the respondent authorities to pay compensation to the petitioner on par with the neighboring land owner.

10. Learned Government Pleader for Land Acquisition has supported the impugned order in all aspects and reiterated the contentions averred in the counter affidavit. He further admitted that the petitioner is the owner of the agricultural land admeasuring Acs.2.50 cents situated in R.S.No.607/1 and that in the year 2007, Acs.1.00 cents of the said agricultural land was converted for non-agricultural purpose. However, learned Government Pleader contended that the acquired extent admeasuring 5440 square meters was taken from the land which was not converted from agricultural to non-agricultural purpose and that the acquired land falls within Acs.1.50 cents that was not converted. Thus, the market value of Rs.1,794/- per square meter, which is applicable to lands converted ton non-agricultural purpose cannot be paid to the petitioner whose agricultural land was acquired. Hence, requested to dismiss the writ petition.

11. Perused the entire material available on record. The main grievance of the petitioner is with regard to the determination of compensation for the land acquired from him pursuant to the notification dated 02.09.2016 issued under Section 3A of the National Highways Act, 1956. It is the case of the petitioner that the land to an extent of Acs.1.00 cents out of his total land of Acs.2.50 cents in R.S.No.607/1 was converted into non-agricultural land vide proceedings dated 30.11.2007;

as such, the respondent authorities ought to have considered the converted land admeasuring Acs.1.00 cents out of the total acquired land to an extent of Acs.1.36 cents, under the non-agricultural category i.e., Rs.1,794/- per square meter while determining the compensation. It is the further case of the petitioner that his neighbouring landowner, whose land was also converted for non-agricultural purposes in the year 2007, was paid compensation at a higher rate, whereas his land was treated entirely as agricultural land.

12. On the other hand, the respondents contend that though Acs.1.00 cent of the petitioner's land was converted into non-agricultural land, the extent of 5440 square meters acquired from the petitioner falls within the remaining Acs.1.50 cents i.e., the unconverted agricultural land. As the neighbouring landowner converted his entire extent of land into non-agricultural land, as such, he was paid higher compensation.

13. It is evident that the dispute between the parties relates to the nature and classification of the acquired land, the applicable market value and the consequential determination of compensation. The petitioner disputes the manner in which the compensation was assessed and seeks enhancement of compensation by treating Acs.1.00 cents of the acquired land as non-agricultural land prior to the acquisition notification. The respondents, however, dispute the same and maintain that the acquired

extent falls entirely within the agricultural portion of the petitioner's land. These disputed questions require examination of the relevant revenue records, conversion proceedings, survey records and other material relating to the location and classification of the acquired land. Furthermore, it requires determination as to whether the acquired land admeasuring 5440 square meters falls within the converted portion i.e., within Acs.1.00 cents out of Acs.2.50 cents or the remaining agricultural portion of the petitioner's land i.e., Acs.1.50 cents.

14. Admittedly, the petitioner had already invoked the statutory remedy available under the National Highways Act, 1956, i.e., under Section 3G(5) of the National Highways Act, 1956, by submitting a reference application against the determination of compensation. For better appreciation of the case, Section 3G(5) and Section 3G(6) of the National Highways Act, 1956 is extracted hereunder:

> (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.

15. Section 3G(5) of the National Highways Act, 1956, provides that where the amount of compensation determined by the competent authority is not acceptable to either of the parties, the amount shall, on an application made by either party, be determined by an Arbitrator appointed by the Central Government. Further, Section 3G(6) of the said Act makes the provisions of the Arbitration and Conciliation Act, 1996, applicable to every arbitration conducted under the National Highways Act, 1956. Consequently, where a party is aggrieved by the arbitral award, the statutory remedy available is to approach the competent Court under Section 34 of the Arbitration and Conciliation Act, 1996, by filing an appropriate application to set aside the arbitral award, subject to the grounds and limitations prescribed therein.

16. In the present case, instead of availing the said statutory remedy before the competent District Court, the petitioner has directly approached this Court under Article 226 of the Constitution of India, seeking enhancement of the compensation awarded to him. The point that now arises for consideration is with respect to the maintainability and entertainability of the writ petition under Article 226 of the Constitution of India, filed against the award of the arbitrator under N.H. Act read with the Act 1996, without challenging the Award under Section 34 of the Act 1996.

17. The law is well settled that Statutory alternative remedy is not an absolute bar in maintaining and entertaining the writ petition; that in the presence of the statutory alternative remedy, the High Court should ordinarily not entertain the writ petition; and that there are well recognized exceptions to the rule of exhaustion of alternative remedy i.e., there is: a) violation of the fundamental rights; b) violation of the principles of natural justice; c) lack of jurisdiction; and d) when the vires of a statute is under challenge.

18. In ***Whirlpool Corporation v. Registrar of Trade Marks***[1], the Hon'ble Apex Court held that under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly

[1] (1998) 8 SCC 1

without jurisdiction or the vires of an Act is challenged. Paragraph Nos.14 to 20 in Whirlpool Corporation (supra) read as under:

> "14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".
>
> 15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.
>
> 16. Rashid Ahmed v. Municipal Board, Kairana [1950 SCC 221 : AIR 1950 SC 163 : 1950 SCR 566] laid down that existence of an adequate legal remedy

was a factor to be taken into consideration in the matter of granting writs. This was followed by another Rashid case, namely, K.S. Rashid & Son v. Income Tax Investigation Commission [AIR 1954 SC 207 : (1954) 25 ITR 167] which reiterated the above proposition and held that where alternative remedy existed, it would be a sound exercise of discretion to refuse to interfere in a petition under Article 226. This proposition was, however, qualified by the significant words, "unless there are good grounds therefor", which indicated that alternative remedy would not operate as an absolute bar and that writ petition under Article 226 could still be entertained in exceptional circumstances.

17. A specific and clear rule was laid down in State of U.P. v. Mohd. Nooh [AIR 1958 SC 86 : 1958 SCR 595] as under:

> *"But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies."*

18. This proposition was considered by a Constitution Bench of this Court in A.V. Venkateswaran, Collector of Customs v. Ramchand Sobhraj Wadhwani [AIR 1961 SC 1506 : (1962) 1 SCR 753] and was affirmed and followed in the following words:

> *"The passages in the judgments of this Court we have extracted would indicate (1) that the*

two exceptions which the learned Solicitor General formulated to the normal rule as to the effect of the existence of an adequate alternative remedy were by no means exhaustive, and (2) that even beyond them a discretion vested in the High Court to have entertained the petition and granted the petitioner relief notwithstanding the existence of an alternative remedy. We need only add that the broad lines of the general principles on which the Court should act having been clearly laid down, their application to the facts of each particular case must necessarily be dependent on a variety of individual facts which must govern the proper exercise of the discretion of the Court, and that in a matter which is thus pre-eminently one of discretion, it is not possible or even if it were, it would not be desirable to lay down inflexible rules which should be applied with rigidity in every case which comes up before the Court."

19. Another Constitution Bench decision in Calcutta Discount Co. Ltd. v. ITO, Companies Distt. I [AIR 1961 SC 372 : (1961) 41 ITR 191] laid down:

"Though the writ of prohibition or certiorari will not issue against an executive authority, the High Courts have power to issue in a fit case an order prohibiting an executive authority from acting without jurisdiction. Where such action of an executive authority acting without jurisdiction subjects or is likely to subject a person to lengthy proceedings and unnecessary harassment, the High Courts will issue appropriate orders or directions to prevent such consequences. Writ of certiorari

> *and prohibition can issue against the Income Tax Officer acting without jurisdiction under Section 34, Income Tax Act."*
>
> 20. Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation."

19. In ***Commissioner of Income Tax v. Chhabil Dass Agarwal***[2], the Hon'ble Apex Court held that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation. There the Apex Court held that, the Income Tax Act provided complete machinery for the assessment/reassessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders, and the assessee could not be permitted to abandon that machinery and to invoke the jurisdiction of High Court under Article 226 of the Constitution when he had adequate remedy open to him by an appeal under the statute. Paragraphs Nos.15 & 16 in Commissioner of Income Tax (supra) read as under:

[2] (2014) 1 SCC 603

“15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case [AIR 1964 SC 1419] , Titaghur Paper Mills case [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 : 1983 SCC (Tax) 131] and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.

16. In the instant case, the Act provides complete machinery for the assessment/reassessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders passed by the Revenue Authorities, and the assessee could not be permitted to abandon that machinery and to invoke the jurisdiction of the High Court under Article 226 of the Constitution when he had adequate remedy open to him by an appeal to the Commissioner of Income Tax (Appeals). The remedy under the statute, however, must be effective and not a mere formality with no substantial relief. In Ram and

> Shyam Co. v. State of Haryana [(1985) 3 SCC 267] this Court has noticed that if an appeal is from "Caesar to Caesar's wife" the existence of alternative remedy would be a mirage and an exercise in futility."

20. Recently, in ***Rikhab Chand Jain v. Union of India***[3], the Hon'ble Apex Court reiterated that the principle, plainly, is that, if a remedy is available to a party before the High Court in another jurisdiction, the writ jurisdiction should not normally be exercised on a petition under Article 226, for, that would allow the machinery set up by the concerned statute to be bye-passed. Paragraph Nos.7 to 10 in **Rikhab Chand Jain** (supra) read as under:

> "7. Decisions of this court are legion from which guidance can aptly be drawn as to when a writ petition ought to be entertained despite the party approaching the High Court not exhausting the alternative statutory remedy available to him/her/it. Insistence by the courts—both this court and the High Courts—of exhaustion of a statutory remedy provided by an enactment before invoking the writ jurisdiction of a High Court under article 226 of the Constitution can be traced to one of several self-imposed restrictions, laid down by judicial precedents of this court. Unless, of course, any of the exceptions (challenge to an act/order grounded on (i) breach of a fundamental right; (ii) violation of natural justice principles; (iii) lack of jurisdiction; and (iv) unconstitutionality of a statute) is satisfied, that a

[3] 2025 SCC OnLine SC 2510

writ court may refuse to entertain a writ petition does not admit of any doubt. This court relying on a host of decisions including State of U.P. v. Mohammad Nooh [1957 SCC OnLine SC 21; AIR 1958 SC 86.] and Titaghur Paper Mills Co. Ltd. v. State of Orissa [(1983) 53 STC 315 (SC); (1983) 142 ITR 663 (SC); (1983) 2 SCC 433; 1983 SCC (Tax) 131; 1983 SCC OnLine SC 102.] has, in Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority [(2023) 109 GSTR 402 (SC); 2023 SCC OnLine SC 95.] , reiterated that availability of an alternative statutory remedy does not oust the jurisdiction of a writ court. It was also explained how “entertainability of a writ petition” is a concept distinct from the concept of “maintainability of a writ petition”.

8. However, this particular appeal unfolds a fact situation which requires consideration of the issue from a different perspective. We wish to justify our conclusions by referring to two old-era Constitution Bench decisions of high authority, which have seemingly faded into obscurity but the significance and impact whereof have continued relevance even in present times.

9. While deciding whether to entertain a petition under article 226 bearing in mind the precedents in the field, a writ court ought to additionally notice the forum designated by the statute for the litigant to approach. This is necessary because the alternative forum that is provided by the statute has to be one which can dispense speedy and efficacious relief. However, as in the present case, if the statutorily designated alternative forum happens to be the High Court itself whose jurisdiction under article 226 is invoked and not any ordinary statutory

functionary/Tribunal, refusal to entertain the petition should be the rule and entertaining it an exception.

10. We may profitably refer, in this context, to the Constitution Bench decision in Thansingh Nathmal v. Superintendent of Taxes [(1964) 15 STC 468 (SC); 1964 SCC OnLine SC 13; AIR 1964 SC 1419.] . In Thansingh Nathmal v. Superintendent of Taxes [(1964) 15 STC 468 (SC); 1964 SCC OnLine SC 13; AIR 1964 SC 1419.] , this court had the occasion to lay down a principle of law which is salutary and not to be found in any other previous decision rendered by it. The principle, plainly, is that, if a remedy is available to a party before the High Court in another jurisdiction, the writ jurisdiction should not normally be exercised on a petition under article 226, for, that would allow the machinery set up by the concerned statute to be bye-passed. The relevant passage from the decision reads as follows (page 474 in 15 STC):

> *"… The jurisdiction of the High Court under article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the court will not entertain a petition for a writ under article 226, where the*

> *petitioner has an alternative remedy, which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or Tribunal, to correct errors of fact, and does not by assuming jurisdiction under article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another Tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under article 226 of the Constitution, the machinery created under the statute to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up."*

21. In ***Ramashankar Yadav (Supra)***, the Allahabad High Court, on consideration of various judgments of the Hon'ble Supreme Court summed up in paragraphs 6 & 6.1 as under:

> "6. The primary question that arises for consideration in the instant matter is whether the present writ petition is maintainable in view of the statutory remedy available under Section 34 of the Arbitration Act, 1996. This Court has carefully considered the rival submissions and the legal precedents cited by both parties.

> 6.1. It is well-established that writ jurisdiction under Article 226 of the Constitution is discretionary and should ordinarily not be exercised when an adequate and efficacious alternative remedy is available. The Supreme Court in Commissioner of Income Tax v. Chhabil Dass Agarwal (supra) has consistently held that challenge to arbitral awards must be made through the statutory mechanism provided under Section 34 of the Arbitration Act, 1996, except in rarest of rare cases where the order is passed in complete defiance of law, without jurisdiction, or in violation of natural justice."

22. Recently, on 21.07.2026, relying on the aforesaid judgments, a learned Division Bench of this Court in ***The Project Director, National Highways Authority of India Vs. Kandukuri Rama and Ors.,***[4] held that the N.H. Act and the Act, 1996 are complete code. The statute provides the remedy under Section 34 of the Act, 1996 to challenge the award of the arbitrator on specified grounds and any party aggrieved from the decision under Section 34 has the statutory remedy of appeal under Section 37 of the Act. So, ordinarily a challenge to an award shall be made in proceedings under Section 34 of the Act, 1996 on the statutorily recognized grounds. Challenge to the award directly under Article 226 of the Constitution of India without taking recourse to Section 34 of the Act,

[4] W.A.No.799 of 2025

1996, in the absence of any well recognized exceptions being attracted, must ordinarily fail on the ground of statutory alternative remedy.

23. In the case on hand, though the petitioner has contended that the respondents have failed to properly determine the compensation by treating Acs.1.00 cents of the acquired land as agricultural land, he failed to establish the exceptional circumstances warranting interference by this Court under Article 226 of the Constitution of India. The petitioner has neither demonstrated any violation of fundamental rights nor established any violation of the principles of natural justice or lack of jurisdiction on the part of the statutory authorities, as per the principles laid down by the Hon'ble Apex Court in the above referred judgments. Such disputed questions can only be examined by the competent Court in proceedings under Section 34 of the Arbitration and Conciliation Act, 1996. Merely alleging that the compensation awarded is inadequate or that the neighbouring landowner was paid higher compensation would not, by itself, constitute an exceptional circumstance to bypass the statutory remedy.

24. Accordingly, this writ petition is disposed of with a liberty to the petitioner to approach the competent authority under Section 34 of the Arbitration and Conciliation Act, 1996. It is made clear that this Court has not expressed any opinion on the merits of the petitioner's claim for

enhancement of compensation or on the rival contentions regarding the classification of the acquired land. All such questions are left open to be raised before the competent forum, in accordance with law. There shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in this Petition shall stand closed.

JUSTICE V.SUJATHA

Date:19.11.2026
Gss