IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION Nos.23527, 23528, 23529, 23530, 23531, 23532, 23533, 23534, 23535, 23536, 23537, 23540, 23541, 23543, 24052, 24055, 24056, 24058, 24060, 24061, 24063, 24064, 24065, 25777, 25778, 25781, 25783, 25787, 26216, 26218, 26610, 26612, 26635, 26636, 26637, 26638 and 26639 of 2024

WRIT PETITION NO: 25777/2024

Between:

KORUVADA GANESH, S/O KORUVADA VENKATA RAMANA, AGE. 39 YEARS, R/O D. NO. 31-34-77, BANGRAMM METTA, ALLIPURAM, VISAKHAPATNAM- 530004.

...PETITIONER.

AND

THE STATE OF AP, REP.BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT (LA), SECRETARIAT, VELAGAPUDI, AMRAVATHI AND OTHERS.

...RESPONDENTS.

DATE OF ORDER PRONOUNCED : **17.11.2026**

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers may be allowed to see the order? : Yes/No

2. Whether the copy of order may be marked to Law Reporters/Journals? : Yes/No

3. Whether His Lordship wish to see the fair copy of the order? : Yes/No

JUSTICE SUBBA REDDY SATTI

*** HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

+ WRIT PETITION Nos.23527, 23528, 23529, 23530, 23531, 23532, 23533, 23534, 23535, 23536, 23537, 23540, 23541, 23543, 24052, 24055, 24056, 24058, 24060, 24061, 24063, 24064, 24065, 25777, 25778, 25781, 25783, 25787, 26216, 26218, 26610, 26612, 26635, 26636, 26637, 26638 and 26639 of 2024

% 17.11.2026

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...RESPONDENTS.

! Counsel for Petitioner : Ms.P.Prashamsha

^ Counsel for Respondent : GP for Land Acquisition

< Gist:

> Head Note:

? Cases referred:

1) (2016) 14 SCC 746

2) (2024) 10 SCC 533

3) (2013) 1 SCC 353

4) [1976] QB 297 : [1975] 3 WLR 542

5) (2011) 5 SCC 553

6) (2005) 7 SCC 627

7) (2010) 12 SCC 726

8) AIR 1967 SC 1074

9) (2008) 1 SCC 728

10) (2009) 14 SCC 281

11) (2011) 4 SCC 769

12) (2014) 3 SCC 430

13) (2007) 15 SCC 791

14) AIR 1964 SC 1217 : (1964) 3 SCR 425

15) (1973) 2 SCC 337

16) (1980) 2 SCC 471

17) (2013) 1 SCC 403

18) AIR 2003 SC 2519

19) (2014) 6 SCC 564

20) (2011) 10 SCC 714

21) (2012) 6 SCC 348

22) 2026 SCC OnLine SC 1324

23) 2024 SCC OnLine SC 1690

24) 2020 SCC OnLine SC 847

25) (1988) 4 SCC 534

26) 1993 Supp (4) SCC 46

27) (2017) 9 SCC 702

This Court made the following:

Date of reserved for orders: 27.10.2026
Date of pronouncement : 17.11.2026
Date of uploading : 18.11.2026

APHC010502832024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3331]
(Special Original Jurisdiction)

TUESDAY, THE 17th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION Nos.23527, 23528, 23529, 23530, 23531, 23532, 23533, 23534, 23535, 23536, 23537, 23540, 23541, 23543, 24052, 24055, 24056, 24058, 24060, 24061, 24063, 24064, 24065, 25777, 25778, 25781, 25783, 25787, 26216, 26218, 26610, 26612, 26635, 26636, 26637, 26638 and 26639 of 2024

WRIT PETITION NO: 25777/2024

Between:

1. KORUVADA GANESH, S/O KORUVADA VENKATA RAMANA, AGE. 39 YEARS, R/O D. NO. 31-34-77, BANGRAMM METTA, ALLIPURAM, VISAKHAPATNAM- 530004.

...PETITIONER

AND

1. THE STATE OF AP, REP.BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT (LA), SECRETARIAT, VELAGAPUDI, AMRAVATHI.
2. THE DISTRICT COLLECTOR, VIZIANAGARAM DISTRICT, AT VIZIANAGARAM.
3. THE SPECIAL DEPUTY COLLECTOR LA FAC, TBP UNIT-LLL,PARVATHIPURAM, VIZIANAGARAM DISTRICT.

4. THE TAHSILDAR, DENKADA MANDAL, VIZIANAGARAM DISTRICT.

5. THE EXECUTIVE ENGINEER, TARAKARAMA THEERDHA SAGARAM RESERVOIR PROJECT WATER RESOURCE DEPARTMENT (IRRIGATION) VIZIANAGARAM, VIZIANAGARAM DISTRICT.

...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 to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus questioning the action of respondents for issuing notifications Form No.VI(A) Notice under Section 11 (1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation Act 2013 and Rule 19(1) under Proceedings R.C.No.1647/2020/G2, dated 18-02-2021 by violating the procedure prescribed under Section 4,5,11,12,14,16,19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation Act 2013 and subsequent declaration under Proceedings Form No. VII vide R.C.NO.1647/2020/G2, dated 14-06-2021 and an award passed by the 3rd respondent vide award vide R.C.No.29/2021/SDT dated 22-06-2022 is arbitrary, unjust, illegal and against Section 4,5,11,12,14,16,1 9-21 and 25- 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation Act 2013 and also against the Article 14,21,300-A of the Constitution of Indian under Tarakarama Theerdha Sagaram Reservoir Project and consequently set aside (1) Form No.VI(A) Preliminary Notice vide Proceedings R.C.No.1647/2020/G2, dated 18-02- 2021 (2) Form No. VII declaration vide R.C.No.1647/2020/G2, dated 14- 06-2021 and (3) an award passed by the 3rd respondent vide award no.7 vide R.C.NO.29/2021/SDT dated 22-06-2022 and direct the respondents not to dispossess petitioner from plot No.43-A in Sy.No.41/16 and 41/17 during pendency of the writ petition and pass

IA NO: 1 OF 2024

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 to set aside (1) Form No.VI(A) Preliminary Notice vide Proceedings R.C.No.1647/2020/G2, dated 18-02- 2021 issued by 2nd respondent (2) Form No. VII declaration vide R.C.NO.1647/2020/G2, dated 14-06-2021 issued by 2nd respondent and (3) an award passed by the 3rd respondent vide award no.7 *vide* R.C.NO.29/2021/SDT dated 22-06-2022 issued by 3rd

respondent for public purpose i.e., Tarakarama Theerdha Sagaram Reservoir Project and pass

IA NO: 2 OF 2024

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 to direct the Respondents not to dispossess the Petitioner from the Plot no.43-A in Sy.No.41/16 and 41/17 at Vedullavalasa Village, Denkada Mandal during the pendency of the Writ Petition and pass

IA NO: 1 OF 2026

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 to vacate the interim orders dated.22.11.2024 in WP No.25777 of 2024 and dismiss the Writ Petition as it is devoid of merits and pass

Counsel for the Petitioner:

1. R GOPI MOHAN

Counsel for the Respondent(S):

1. GP FOR LAND ACQUISITION
2. GP FOR REVENUE
3. GP FOR IRRI AND CAD

The Court made the following:

COMMON ORDER

INTRODUCTION:

The owners of different plots in L.P.No.63 of 2015 in Sri Venkatadri Nagar in S.Nos.12/21 to 12/25, 12/27 to 12/32, 13/1, 13/3 to 13/5, 14/1 to 14/7, 40/1 to 40/4 and 41/1 to 41/20 of Vedullavalasa Revenue Village, Denkada Mandal, Vizianagaram District, filed the above writ petitions.

2. In Writ Petition Nos.23527, 23528, 23529, 23530, 23531, 23532, 23533, 23534, 23535, 23536, 23537, 23540, 23541, 23543, 24052, 24055, 24056, 24058, 24060, 24061, 24063, 24064 and 24065 of 2024, the respective

petitioners sought for payment of compensation in square yards basis, but not in acreage.

3. In Writ Petition Nos.25777, 25778, 25781, 25783, 25787, 26216, 26218, 26610, 26612, 26635, 26636, 26637, 26638 and 26639 of 2024, the respective petitioners challenged the preliminary notification under Section 11 (1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "**the Act**") *vide* Rc.No.1647/2020/G2, dated 18.02.2021; declaration under Section 19 (1) of the Act *vide* Rc.No.1647/2020/G2, dated 14.06.2021 and the Award passed by the 3rd respondent *vide* Rc.No.29/2021/SDT, dated 22.06.2022.

4. Though different reliefs were sought by the respective individuals as noted *supra*, the claims of all the writ petitioners relate to the layout referred to *supra*, in which an extent of Ac.3.70 cents of land was notified under the acquisition for public purpose for excavation of Right Main Canal from KM 12.412 to KM 13.500 under Tarakarama Teerdha Sagar Project and the issue involved in all the writ petitions is inter-connected; they are being disposed of by way of common order.

FACTS IN BRIEF:

5. An extent of Ac.14.19 cents in S.Nos.12/21 to 12/25, 12/27 to 12/32, 13/1, 13/3 to 13/5, 14/1 to 14/7, 40/1 to 40/4 and 41/1 to 41/20 of Vedullavalasa village, Denkada Mandal, Vizianagaram District, owned by K.Satya Priyanka, W/o K.Mohana Rao. The vendee alienated Ac.5.68 cents *vide* Document No.4619 of 2014 dated 02.09.2014; Ac.4.72 cents *vide* Document No.5908 of 2014 dated 20.11.2014; and Ac.3.79 cents *vide* Document No.5909 of 2014 dated 20.11.2014 to M/s Sukhibhava Sweet Homes Private Limited (for short, "**SSHPL**"). The name of M/s SSHPL was updated in the Record of Rights. A copy of RoR (1B) dated 20.06.2015 was filed as Ex.P7 in W.P.No.25777 of 2024. The vendor of the property got the

land converted from agricultural land to non-agricultural land *vide* D.Dis.No.835/2016/C, dated 26.07.2016 (Ex.P6 in W.P.No.25777 of 2024).

6. The M/s SSHPL applied for a layout to the Visakhapatnam Urban Development Authority (VUDA). The layout was approved *vide* proceedings Rc.No.3969/2015/L8, dated 04.07.2015. Mortgaged plots were released *vide* proceedings Rc.No.3969/2015/L8, dated 22.09.2017 (Ex.P5 in W.P.No.25777 of 2024). As per the layout, 209 plots were laid. Plot Nos.76 to103 (total 28 plots), to an extent of Ac.1.27 cents in S.Nos.12/p, 13/p, 14/p, 40/p & 41/p were mortgaged to VUDA *vide* registered mortgage deed No.5285 of 2015 dated 27.06.2015 and later, the mortgage was released by way of Re-conveyance deed No.3153 of 2017 dated 11.08.2017.

7. The 2nd respondent issued a notification in Form VI(A) under Section 11 (1) of the Act *vide* Rc.No.1647/2020/G2, dated 18.02.2021, to acquire Ac.3.70 cents in Vedullavalasa village in the survey numbers referred to *supra*. The owners are shown as J.V. Krishna Rao, P. Kasulu, G. Guruvulu, B. Suryanarayana, and others. The possessor is shown as M/S Sukhibhava Sweet Homes Private Limited. Thereafter, the 2nd respondent issued a declaration in Form No.VII under Section 19 (1) of the Act (Ex.P2 in W.P.No.25777 of 2024). The 3rd respondent passed Award No.07/2022 *vide* Rc.No.29/2021/SDT, dated 22.06.2022, for an extent of Ac.3-70 cts, as per the notifications, determining the market value at Rs.72,78,879/-.

8. It seems two preliminary notifications were published, as well as two declarations to acquire the land in Vedullavalasa village. One is exclusively for the land in the layout, and the other notification is for other extent in the village. The preliminary notification in respect of other lands is filed as Ex.P1 in W.P.No.25777 of 2024.

9. After the award was passed, some of the petitioners made a representation dated 18.07.2024 to the 3rd respondent (Ex.P1 in

W.P.No.23527 of 2024), stating that the Managing Director of M/s SSHPL received a letter dated 22.06.2022 from the authorities about the land acquisition process. Out of Ac.3.70 cents, M/S SSHPL owns 1,226 square yards, and the remaining plots were sold to different persons; thus, it requested that compensation be paid to the original owners on a square-yard basis, not in acreage. The Managing Partner of M/s SSHPL addressed a letter dated 18.07.2024 (Ex.P2 in W.P.No.23527 of 2024) to the 3rd respondent, intimating the authority about the development of housing colony in the name and style of Sri Venkatadri Nagar; the company sold most of the plots and owns approximately 1,026.82 square yards and requested the authority to provide 40 feet road by constructing culvert/bridge for the remaining land owners. The Managing Director also addressed letters dated 18.12.2023 and 12.01.2024 to the 3rd respondent about the layout etc.

10. The 3rd respondent, by a reply letter dated 24.08.2024 (Ex.P3 in W.P.No.23527 of 2024), informed the petitioners that the Executive Engineer, Tarakarama Sagar Project, requested the Land Acquisition Authority to acquire the land in S.Nos.5, 6, 7, 8, 11, 12, 41 and 46 of Vedullavalasa village. As per the said requisition, the Sub-Division record was prepared. The notification was published in Sakshi and Deccan Chronicle newspapers on 18.02.2021; however, no objections were received within 60 days. Since no objections were received, pursuant to the preliminary notification, within 60 days, the declaration under Section 19 (1) of the Act was published in Visalandhra Telugu Daily and Hans India English newspaper on 14.06.2021, and the Gazette (VZM No.122/2021/A8, dated 16.06.2021) was also published. Thereafter, notices were issued in relation to the award enquiry under Section 21(1) and 21(4) of the Act, and the same were published at the Local Mandal Office. However, no claims were received. The compensation amount is proposed to be deposited before the Rehabilitation and Resettlement Authority. Hence, the petitioners' request to determine compensation is not feasible.

11. Thereafter, the petitioners filed different writ petitions as noted *supra*, one batch for determining the compensation on a square-yard basis and the other batch was filed challenging the preliminary notification, declaration and award itself.

PLEADINGS:

12. For a better appreciation of facts, the averments in the affidavit in W.P.No.25777 of 2024 are noted. In the affidavit, it was pleaded that the plot was purchased under a registered document in the year 2016; vendor's purchase; conversion of land; layout permission, etc. It was specifically contended that in the notification under Section 11(1) of the Act, the names of the ***vendor's vendor's vendor*** were mentioned as Pattadars and the name of the vendor of the petitioners was mentioned as Enjoyer. Although house plots were made as per the layout after conversion, the notification referred to the nature of the land as Dry and Wet lands. The preliminary notification and declaration violate Sections 4, 12, 16, 20 and 21 of the Act. The award violates Sections 13, 26 to 30 of the Act. The preliminary notification does not disclose the Social Impact Assessment under Section 4 (1) of the Act. The preliminary notification does not reflect a public hearing for the Social Impact Assessment. After the preliminary notification under Section 11(1) of the Act, the 2nd respondent did not update the land records as prescribed under Section 11(5) of the Act. Had the 2nd respondent complied with Section 11(5) of the Act, the declaration under Section 19(1) of the Act would have reflected the plot owners' names. No survey was conducted under Section 12 of the Act. The 3rd respondent did not prepare any rehabilitation and resettlement scheme. The 2nd respondent did not inform the concerned Gram Panchayat of the land particulars of acquisition under Section 11(2) of the Act. Thus, the preliminary notification under Section 11(1) of the Act, declaration under Section 19(1) of the Act and the Award are liable to be set aside.

13. a) A Counter affidavit was filed along with a vacate stay petition. The 3rd respondent deposed to the affidavit. It was contended, *inter alia*, that the Executive Division, TRTS Division, Vizianagaram sent a requisition for acquisition of land of an extent of Ac.3.70 cents (Wet 0 Ac.0.44 cents + Dry Ac.3.26 cents) covered by S.No.12 and 41 of Vedullavalasa village, for Right Main Canal under TRTS Reservoir Project. Accordingly, proceedings were initiated. The District Collector published a preliminary notification in the District Gazette and in two newspapers, mentioning Sukhibhava Sweet Homes Private Limited for an extent of Ac.3.70 cents. However, no objections were received. Thereafter, the District Collector published a draft declaration under Section 19(1) mentioning Sukhibhava Sweet Homes Private Limited. The 3rd respondent issued notices under Section 21(4) and 22 of the Act on 21.02.2022 by pasting them on the wall of the subject land, as the notified landowner and his men refused to receive them. Neither the notified Sukhibhava Sweet Homes Private Limited nor any interested person filed documentary evidence or claimed compensation. The Land Acquisition Officer (LAO) proceeded to enquire under Section 23 of the Act into any objections. Since no objections were received during the award enquiry, the LAO passed the award for Rs.72,78,879/-.

b) Thereafter, the petitioner(s) made a representation after a lapse of nearly 2 years, requesting to consider valuation on a square-yard basis, and a proper reply was given to the said representation. The petitioner did not file any documentary evidence and claimed compensation at the stage of draft declaration under Section 19(1) of the Act or at Award enquiry. The petitioner never raised any objection regarding title or compensation. M/S SSHPL also did not submit any document regarding the layout, etc.

c) In Paragraph-4 of the counter affidavit, it was stated that the averments in Paragraphs 5 to 8 of the writ affidavit are not true and correct. All the activities are known to M/S SSHPL, which, in turn, refused to take

notices at every stage by their men in the locality. The Land Acquisition Officer followed the procedure under the Act and thereafter passed the award.

14. An *interim* order of *status quo* was granted on 22.11.2024 by the coordinate bench of this Court and the same is being extended from time to time.

CONTENTIONS:

15. Heard Ms P.Prashamsha, learned counsel for the petitioners and Sri P.Ramakrishna, learned Government Pleader for Land Acquisition, for the respondents.

16. Learned counsel for the petitioners made the following submissions:

(i) The preliminary notification issued under Section 11(1) of the Act was not preceded by a Social Impact Assessment Study as contemplated under Section 4, 5 and 6 of the Act.

(ii) The vendor of the petitioners M/s SSHPL, purchased Ac.14.19 cents under 3 registered documents in September and November, 2014; thereafter got the land converted from agricultural land to non-agricultural land; got the layout approved from VUDA; plots were laid; plots were sold to different individuals. The petitioners purchased different plots in the year 2016 and so on.

(iii) The preliminary notification was issued nearly 5 years after the purchase of plots, without verifying the names of the land owners.

(iv) The names of the vendor's vendors were mentioned in the notification as Pattadar, and the vendor name was mentioned as Enjoyer in the preliminary notification as well as the declaration.

(v) No notice was served on any of the petitioners at any point in time vis-à-vis the acquisition of the lands.

(vi) The 2nd respondent did not exercise the power to update the Record of Rights as contemplated under Section 11(5) of the Act.

(vii) The 2nd respondent failed to conduct a survey under Section 12 of the Act.

(viii) The 3rd respondent failed to prepare a rehabilitation and resettlement scheme under Section 16 of the Act.

(ix) No notices were issued to the plot owners at any time enabling them to submit objections, and thereby the plot owners lost their right to file objections under Section 15 of the Act.

(x) The determination of compensation on an acreage basis, though the land was converted into non-agricultural land, is arbitrary.

(xi) Learned counsel finally urged that the respondents 2 and 3 violated the scheme under the Act and thereby the preliminary notification under Section 11(1) of the Act, declaration under Section 19(1) of the Act and the Award are liable to be set aside.

17. In support of the contentions, the learned counsel placed reliance on the following decisions:

1. **Alok Kotahwala v. Jaipur Metro Rail Corporation Ltd. & Ors**. [2026 INSC 682];
2. **Lajja Ram v. Union Territory, Chandigarh**, [Civil Appeal No. 1964 of 2013, arising out of SLP(C) No. 24916 of 2008];
3. **S. Palani Velayutham v. District Collector, Tirunelveli, Tamil Nadu**, [(2009) 10 SCC 664];
4. **State of Karnataka v. Narasimhamurthy**, [AIR 1996 SC 90: (1995) 5 SCC 524].

18. Sri P.Ramakrishna, learned Government Pleader for Land Acquisition, made the following submissions:

(i) The Executive Engineer, TRTS Division, Vizianagaram sent a requisition for acquisition of land in S.Nos.12 and 41 of Vedullavalasa village, Denkada Mandal.

(ii) A preliminary notification issued under Section 11(1) of the Act was published, as per the names available in the revenue records, in two newspapers and the District Gazette. No objections were received, and hence, the 2nd respondent published a declaration under Section 19(1) of the Act. The Land Acquisition Officer issued notices under Section 21(2) and 22 of the Act and also pasted them on the wall of the subject land, as the notified landowner and his men refused to receive them.

(iii) The Land Acquisition Officer followed the procedure under Section 23, 26 and 30 of the Act, determined the market value and passed the award.

(iv) Two years after the award was passed, the petitioners and their vendor made representations; however, the Land Acquisition Officer issued a suitable reply to the said representations.

(v) The authorities followed due procedure at all stages and eventually prayed to dismiss the writ petitions.

19. Now, the points for consideration are:

1) **Whether the notification under Section 11(1) of the Act is vitiated by not publishing the names of the owners of the land on the date of notification?**
2) **Whether the landowners were provided an opportunity to submit objections and thereby the authority conducted an enquiry under Section 15 of the Act?**
3) **Whether the declaration under Section 19(1) of the Act is vitiated for not following the procedure under Section 11(5) and 12 of the Act?**
4) **Whether the award is vitiated for not issuing notices to the landowners?**
5) **Whether the determination of market value on an acreage is legally sustainable when the land was converted from**

agriculture to non-agriculture, and a layout was duly made, and plots were sold to different individuals?

UNDISPUTED FACTS AS PER MATERIAL AVAILABLE ON RECORD:

20. The undisputed facts, as seen from the pleadings, documents, material available on record and arguments, for better appreciation, though the facts need not be reiterated, are reproduced hereunder.

21. M/S Sukhibhava Sweet Homes Private Limited purchased an extent of Ac.14.19 cents from K. Satya Priyanka, W/o K. Mohana Rao, under 3 registered documents dated 02.09.2014, 20.11.2014, and 20.11.2014 (Ac.5.68 cents, Ac.4.72 cents, and Ac.3.79 cents). M/s SSHPL got the land converted from agricultural land to non-agricultural land by proceedings of the Revenue Divisional Officer, Vizianagaram, dated 26.07.2016. The VUDA approved the layout on 04.07.2015, and the final layout was released on 22.09.2017. The name of M/s SSHPL was updated in the Record of Rights as per ROR (1B) dated 20.6.2015.

22. In the preliminary notification published under Section 11(1) of the Act, the names of different persons were mentioned as Pattadars and the name of M/s SSHLP was mentioned as Enjoyers. **Two separate notifications were published to acquire land in Vedullavalasa village: one in respect of other survey numbers and the other in respect of survey numbers in the layout**.

23. Two separate declarations were also published. The preliminary notification published under Section 11(1) of the Act states that the acquisition is for an irrigation project. Clearance from the environment and various other departments is not required as per the Gazette published by the Government of India. No families were displaced due to the acquisition. In the declaration published under Section 19(1) of the Act, it was mentioned that the 2nd respondent, District Collector, **after having heard the objections of the**

persons interested and after due enquiry as provided under Section 15 of the Act and the Requiring Body, i.e. Executive Engineer, TRTS Division, has informed that the necessary budget is available for land acquisition, the declaration was made. Thereafter, the 3rd respondent passed the award for Ac.3.70 cents (Wet – Ac.0.44 cents + Dry – Ac.3.26 cents), awarding compensation of Rs.72,78,879/-.

ANALYSIS

LEGAL ATTRIBUTES:

24. The right to property, though not a fundamental right, is a constitutional right and human right guaranteed under Article 300A of the Constitution of India. By exercising the eminent domain principle, the State can acquire land for a public purpose. Article 300A of the Constitution of India mandates that no person shall be deprived of property, save by ***authority of law***. Article 300A is not an empty formality. It requires that there must be a law, that the deprivation must be for a purpose which that law permits, and that the deprivation must be effected in the manner which that law prescribes. Where the deprivation is not so effected, it is without authority of law, since the authority is derived from the law and from nothing else. The exercise of power contrary to the provisions is a colourable exercise.

25. In **State of Haryana Vs. Devander Sagar**[1], the Hon'ble Apex Court, while considering the invocation of the urgency clause under the L.A. Act, 1894 *vis-à-vis* Article 300-A of the Constitution of India, held as under:

> "8. Even though the holding of property is no longer a fundamental right guaranteed under Part III of the Constitution of India, it has been given constitutional protection under Article 300-A, which came to be inserted into the Constitution by the Constitution (Forty-fourth Amendment) Act, 1978 which omitted Article 19(1)(*f*) viz. "to acquire, hold and dispose of property". The Constitution now guarantees that no person shall be

[1] (2016) 14 SCC 746

> deprived of his property save by authority of law. We have mentioned this for the reason that if the Union or the State Government is desirous of depriving any person of his property it can only do so by authority of law. That authority, as is facially evident, inter alia, is the necessity to tend the payment of 80% of the compensation estimated by the Collector in the event that Section 17 is to be pressed into service, with the objective of denying the landowners remonstration rights by filing objections in consonance with Section 5-A of the LA Act. Expropriatory legislation, such as the LA Act, must compulsorily be construed strictly. The appellant State cannot be permitted to invoke one part of Section 17 while discarding another."

26. What is the 'authority of law' was considered by the Hon'ble Apex Court in **Kolkata Municipal Corporation Vs. Bimal Kumar Shah**[2]. The Hon'ble Apex Court, while interpreting the expression "authority of law" occurring in Article 300A, held that the Right to Property is not a single right, but a net of intersecting sub-rights, each with a distinct character and interconnected to constitute the whole, and that State action must be measured against that net as a whole. The relevant paragraphs are extracted as under:

> 28. …Despite its spatial placement, Article 300A which declares that "no person shall be deprived of his property save by authority of law" has been characterised both as a constitutional and also a human right. To assume that constitutional protection gets constricted to the mandate of a fair compensation would be a disingenuous reading of the text and, shall we say, offensive to the egalitarian spirit of the Constitution.
>
> 30. What then are these sub-rights or strands of this swadeshi constitutional fabric constituting the right to property? Seven such sub-rights can be identified, albeit non-exhaustive. These are:
>
> (i) The duty of the State to inform the person that it intends to acquire his property — the right to notice,
>
> (ii) The duty of the State to hear objections to the acquisition — the right to be heard,

[2] (2024) 10 SCC 533

(iii) The duty of the State to inform the person of its decision to acquire — the right to a reasoned decision,

(vi) The duty of the State to demonstrate that the acquisition is for public purpose — the duty to acquire only for public purpose,

(v) The duty of the State to restitute and rehabilitate — the right of restitution or fair compensation,

(vi) The duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings — the right to an efficient and expeditious process, and

(vii) The final conclusion of the proceedings leading to vesting — the right of conclusion.

31. These seven rights are foundational components of a law that is in tune with Article 300A, and the absence of one of these or some of them would render the law susceptible to challenge. … **These seven sub-rights may be procedures, but they do constitute the real content of the right to property under Article 300A, non-compliance of these will amount to violation of the right, being without the authority of law.** (emphasis is mine)

34. The seven principles which we have discussed are integral to the authority of law enabling compulsory acquisition of private property. Union and State statutes have adopted these principles and incorporated them in different forms in the statutes provisioning compulsory acquisition of immovable property. The importance of these principles, independent of the statutory prescription have been recognised by our constitutional courts and they have become part of our administrative law jurisprudence.

27. In **Tukaram Kana Joshi Vs. Maharashtra Industrial Development Corporation**[3]**,** the Hon'ble Apex Court, while considering the deprivation of land without recourse to the procedure prescribed by the statute, held as under:

"8. The appellants were deprived of their immovable property in 1964, when Article 31 of the Constitution was still intact and the right to

[3] (2013) 1 SCC 353

property was a part of fundamental rights under Article 19 of the Constitution. It is pertinent to note that even after the Right to Property ceased to be a Fundamental Right, taking possession of or acquiring the property of a citizen most certainly tantamounts to deprivation and such deprivation can take place only in accordance with the "law", as the said word has specifically been used in Article 300-A of the Constitution. Such deprivation can be only by resorting to a procedure prescribed by a statute. The same cannot be done by way of executive fiat or order or administration caprice. In **Jilubhai Nanbhai Khachar v. State of Gujarat**, AIR 1995 SC 142, it has been held as follows:

> "48. In other words, Article 300-A only limits the power of the State that no person shall be deprived of his property save by authority of law. There is no deprivation without due sanction of law. Deprivation by any other mode is not acquisition or taking possession under Article 300-A. In other words, if there is no law, there is no deprivation."

SCHEME OF ACT 30 OF 2013:

28. Act 30 of 2013 is a complete code on acquisition, and it prescribes the sequence in which the power of compulsory acquisition (eminent domain) can be exercised. Chapter II, comprising Sections 4 to 9, requires the preparation of a Social Impact Assessment study, its appraisal by an Expert Group under Section 7 and its examination by the appropriate Government under Section 8. Section 11(1) requires a preliminary notification containing the details of the land to be published in the prescribed modes, and Section 11(5) requires the Collector to undertake and complete the exercise of updating land records within two months before issuing the declaration under Section 19.

29. Section 12 provides for a preliminary survey of the land. Section 15 envisages any interested person the right to object and requires the Collector to give him a hearing. Section 19(1) authorises the declaration only when the appropriate Government is satisfied, after considering the report under Section 15(2). Section 21 requires notice to be given to the persons interested, and sub-section (4) thereof requires notice to be served on the occupier and on all persons known or believed to be interested. Sections 23

and 26 provide for the enquiry, the award and the determination of the market value. Each is a step in the process, and the Act does not confer any power to take land otherwise than in the manner prescribed. Section 92 of the Act prescribes that any notices under the Act, except for Section 66 of the Act, shall be delivered or tendered by the officer; whenever it may be practicable, the service shall be made to the person named; if the person is not found, on the adult member of the family and, in case of non-availability, pasting the copy in a conspicuous place where the land is to be acquired.

LAND ACQUISITION ACT; ACT 30 OF 2013 IS AN EXPROPRIATORY LEGISLATION:

30. Act 30 of 2013 enables the State to take a private person's land for a public purpose and, to that end, operates on that person's property rights without his/her consent. Legislation of this nature is known in law as Expropriatory Legislation. *Wharton's Law Lexicon* defines expropriation as *"the surrender of a claim to exclusive property"* and in **Benin Vs. Whimster**[4], it is described as *"the taking of full title and interest in property, usually without compensation"*.

31. Act 30 of 2013 affects the transfer of the owner's full title and interest to the State, brought about by the intent of the legislature and not by the will of the owner. It is for this reason that a statute of this description is to be construed strictly, and no width can be given to its provisions by implication in favour of the State or of the authority which acquires the land.

32. The Hon'ble Apex Court considered the character of such legislation in **Radhe Shyam Vs. State of U.P**.[5], while summing up the law on the subject, the Court held that legislation providing for compulsory acquisition of private property by the State falls within the category of expropriatory legislation and must be construed strictly. This proposition expounded in paragraph 77(ii) of the judgment, is extracted hereunder:

[4] [1976] QB 297 : [1975] 3 WLR 542
[5] (2011) 5 SCC 553

> "77. (ii) The legislations which provide for compulsory acquisition of private property by the State fall in the category of expropriatory legislation and such legislation must be construed strictly — DLF Qutab Enclave Complex Educational Charitable Trust v. State of Haryana [(2003) 5 SCC 622] ; State of Maharashtra v. B.E. Billimoria [(2003) 7 SCC 336] and Dev Sharan v. State of U.P. [(2011) 4 SCC 769]"

33. The Hon'ble Apex Court reiterated this principle in **Hindustan Petroleum Corpn. Ltd. Vs. Darius Shapur Chenai**[6]**.** Their Lordships held that the Land Acquisition Act, 1894 is expropriatory legislation and observed that, in such a case, the provisions of the statute should be strictly construed, as it deprives a person of his land without consent. Paragraph 29 of the judgment is reproduced hereunder.

> "29. The Act is an expropriatory legislation. This Court in State of M.P. v. Vishnu Prasad Sharma [(1966) 3 SCR 557 : AIR 1966 SC 1593] observed that in such a case the provisions of the statute should be strictly construed as it deprives a person of his land without consent."

34. In **Mohanlal Nanabhai Choksi Vs. State of Gujarat**[7]**,** the Hon'ble Apex Court viewed the matter from the standpoint of Article 300-A of the Constitution of India. Their Lordships held that the right to property, though no longer a fundamental right, enjoys protection under the said Article to the extent that property cannot be deprived save by authority of law. The Land Acquisition Act, 1894 was described as a drastic and expropriatory piece of legislation, and it was held that the owner of the property is entitled to raise all legally permissible objections to the legality of the acquisition proceedings. Paragraph 30 of the judgment is extracted hereunder:

> "30. The right of property, may no longer be a fundamental right, but it enjoys the protection of Article 300-A of the Constitution to the extent that there can be no deprivation of property save by authority of law. Authority of law would obviously mean valid authority of law. In a case of

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[6] (2005) 7 SCC 627
[7] (2010) 12 SCC 726

> deprivation of property by acquisition, ultimately by the Land Acquisition Act, 1894, which is a drastic and expropriatory piece of legislation, the owners of property, the appellants herein, are admittedly entitled to raise all legally permissible objections to the legality of an acquisition proceeding."

35. Thus, a conspectus of the above expressions of the Hon'ble Apex Court leaves no room and leads to the following position. Compulsory acquisition of a private person's property by the State is expropriatory in character. Act 30 of 2013, which provides for compulsory acquisition, falls within the category of expropriatory legislation. An expropriatory statute ought to be construed strictly. Strict construction does not mean that the object of the statute is to be defeated, nor that its provisions are to be read in a manner which frustrates the purpose for which it is enacted. It means that the State must bring its case within the four corners of the statute. The provisions of the Act, the procedure prescribed therein and the conditions which the statute makes obligatory before the power of acquisition is exercised require strict compliance. It is not open to the acquiring authority to dispense with or relax a requirement of the statute, nor can a requirement which is mandatory in terms be treated as directory.

36. The principle governing the construction of such a statute is settled by a long line of decisions of the Hon'ble Apex Court. It is necessary to refer to some decisions, inasmuch as the answer to some of the contentions urged on behalf of the counsels turns upon them. It is a fundamental principle of law that the provisions in an expropriatory legislation must be construed strictly.

37. In **Khub Chand Vs. State of Rajasthan**[8]**,** the Hon'ble Apex Court, while considering the requirement of a public notice of the substance of the notification under Section 4 of the Land Acquisition Act, 1894, held as under:

> 7. …The provisions of a statute conferring power on the Government to compulsorily acquire lands shall be strictly construed.

[8] AIR 1967 SC 1074

> Section 4 in clear terms says that the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality. The provision is mandatory in terms. Doubtless, under certain circumstances, the expression "shall" is construed as "may". The term "shall" in its ordinary significance is mandatory and the court shall ordinarily give that interpretation to that term unless such an interpretation leads to some absurd or inconvenient consequence or be at variance with the intent of the legislature, to be collected from other parts of the Act. The construction of the said expression depends on the provisions of a particular Act, the setting in which the expression appears, the object for which the direction is given, the consequences that would flow from the infringement of the direction and such other considerations.

38. In **Devinder Singh Vs. State of Punjab**[9], the Hon'ble Apex Court observed as under:

> "13. Indisputably, the Land Acquisition Act is an expropriatory legislation. The State ordinarily can acquire a property in exercise of its power of "eminent domain" subject to existence of public purpose and on payment of reasonable compensation in terms of the provisions of the Act. However, the State has been empowered to acquire land also for "companies" and for purposes other than public purpose.
>
> 43. Expropriatory legislation, as is well known, must be strictly construed. When the properties of a citizen are being compulsorily acquired by a State in exercise of its power of eminent domain, the essential ingredients thereof, namely, existence of a public purpose and payment of compensation are principal requisites therefor. In the case of acquisition of land for a private company, existence of a public purpose being not a requisite criterion, other statutory requirements call for strict compliance, being imperative in character."

39. The said principle was reiterated in **Mahender Pal Vs. State of Haryana**[10]**,** wherein the Hon'ble Apex Court held as under:

> "12. It is a well-settled principle of law that an exception carved out from the main provision as a result whereof a citizen of India may be

[9] (2008) 1 SCC 728
[10] (2009) 14 SCC 281

deprived of his property particularly having regard to the fact that if it is considered to be a human right, procedural safeguards laid down therefor must be scrupulously complied with. It being an expropriatory legislation deserves strict construction. (See *Hindustan Petroleum Corpn. Ltd.* v. *Darius Shapur Chenai* [(2005) 7 SCC 627] , *Devinder Singh* v. *State of Punjab* [(2008) 1 SCC 728] and *City Montessori School* v. *State of U.P.* [(2009) 14 SCC 253 : (2009) 2 Scale 740])".

40. In **Dev Sharan Vs. State of U.P.**[11]**,** the Hon'ble Apex Court, after referring to the earlier decisions, held as under:

"22. The aforesaid principles in our jurisprudence compel this Court to construe any expropriatory legislation like the Land Acquisition Act very strictly. The judicial pronouncements on this aspect are numerous, only a few of them may be noted here.

23. In ***DLF Qutab Enclave Complex Educational Charitable Trust* v. *State of Haryana*** [(2003) 5 SCC 622] , this Court construed the statute on Town Planning Law and held: (SCC p. 635, para 41)

"*41*. Expropriatory statute, as is well known, must be strictly construed."

The same principle has been reiterated subsequently by a three-Judge Bench of this Court in ***State of Maharashtra* v. *B.E. Billimoria*** [(2003) 7 SCC 336] in the context of ceiling law. (See SCC para 22 at p. 347 of the Report.)

24. These principles again found support in the decision of this Court in ***Indore Vikas Pradhikaran* v. *Pure Industrial Coke and Chemicals Ltd.*** [(2007) 8 SCC 705] wherein this Court construed the status of a person's right to property after deletion of Article 19(1)(*f*) from Part III. By referring to various international covenants, namely, the Declaration of Human and Civic Rights, this Court held that even though right to property has ceased to be a fundamental right but it would however be given an express recognition as a legal right and also as a human right. While discussing the ambit and extent of property right, this Court reiterated that

[11] (2011) 4 SCC 769

expropriatory legislation must be given strict construction. (See SCC paras 53-57 at pp. 731-32 of the Report.)"

41. In **Godrej & Boyce Mfg. Co. Ltd. Vs. State of Maharashtra**[12], the Hon'ble Apex Court held as under:

> "73. In ***Hindustan Petroleum Corpn. Ltd.* v. *Darius Shapur Chenai*** [(2005) 7 SCC 627] this Court dealt with the provisions of the Land Acquisition Act and held that the legislation being an expropriatory legislation, it ought to be strictly construed since it deprives a person of his/her land. In this decision, reliance was placed on *State of M.P.* v. *Vishnu Prasad Sharma* [AIR 1966 SC 1593 : (1966) 3 SCR 557] and *Khub Chand* v. *State of Rajasthan* [AIR 1967 SC 1074 : (1967) 1 SCR 120] . The same rationale would apply to Section 2(*f*)(*iii*) of the Private Forests Act since it seeks to take away, after a few decades, private land on the ostensible ground that it is a private forest. Section 2(*f*)(*iii*) of the Private Forests Act must not only be reasonably construed but also strictly so as not to discomfit a citizen and expropriate his/her property."

42. Thus, an analysis of the above observations of the Hon'ble Apex Court makes things coherent. Act 30 of 2013 is an expropriatory legislation. The observations in **Khub Chand** (*supra*) on the distinction between directory and mandatory requirements are apposite. The modes of publication and the opportunity of objection are not mere forms or formalities which the acquiring authority can mould to its convenience. They are the means by which the statute ensures that a person who is to lose his land knows of it and is heard before he loses it. It is also pertinent to mention here that Section 92 of the Act prescribes the procedure vis-à-vis service of the notice. Thus, the legislature did not give the executive any scope to mould the procedure to its convenience.

43. Let the Court now examine the facts in these cases on the anvil of the jurisprudence of Act 30 of 2013 and the precedents referred to *supra*.

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[12] (2014) 3 SCC 430

VALIDITY OF THE PRELIMINARY NOTIFICATION AND THE REQUIREMENT OF MENTIONING THE NAME OF THE LANDOWNER:

44. Now, coming to the stages of the land acquisition process, Section 11(1) of the Act requires the appropriate Government to issue a notification to the effect that the land is needed for a public purpose along with the details of the land, published in the Official Gazette, in two daily newspapers circulating in the locality, in the local language in the Panchayat, Municipality or Municipal Corporation concerned, in the offices of the District Collector, the Sub-divisional Magistrate and the Tehsil, on the website of the appropriate Government and in the affected areas in the manner prescribed. Sub-section (3) requires the notification to include a statement on the nature of the public purpose involved the reasons necessitating the displacement of affected persons, a summary of the Social Impact Assessment report, and the particulars of the Administrator appointed for rehabilitation and resettlement under Section 43. The name of the owner of the land is not one of the particulars which the section requires to be stated. Clauses 1 to 3 of Section 11 of the Act are reproduced hereunder,

> **11. Publication of preliminary notification and powers of officers thereupon**. (1) Whenever, it appears to the appropriate Government that land in any area is required or likely to be required for any public purpose, a notification (hereinafter referred to as preliminary notification) to that effect along with details of the land to be acquired in rural and urban areas shall be published in the following manner, namely:-
>
> (a) in the Official Gazette;
>
> (b) in two daily newspapers circulating in the locality of such area of which one shall be in the regional language;
>
> (c) in the local language in the Panchayat, Municipality or Municipal Corporation, as the case may be and in the offices of the District Collector, the Sub-divisional Magistrate and the Tehsil;
>
> (d) uploaded on the website of the appropriate Government;
>
> (e) in the affected areas, in such manner as may be prescribed.
>
> (2) Immediately after issuance of the notification under sub-section (1), the concerned Gram Sabha or Sabhas at the village level, municipalities

in case of municipal areas and the Autonomous Councils in case of the areas referred to in the Sixth Schedule to the Constitution, shall be informed of the contents of the notification issued under the said sub-section in all cases of land acquisition at a meeting called especially for this purpose.

(3) The notification issued under sub-section (l) shall also contain a statement on the nature of the public purpose involved, reasons necessitating the displacement of affected persons, summary of the Social Impact Assessment Report and particulars of the Administrator appointed for the of rehabilitation and resettlement under section 43.

45. The Hon'ble Apex Court, in **Union of India Vs. K. Balaji Jaya Rama Rao**[13]**,** while dealing with an identical contention advanced with reference to Section 4 of the Land Acquisition Act, 1894, held in paragraphs 11 and 13 of the judgment as follows:

> 11. A plain reading of Section 4 shows that all that is required is that a notification has to be published in the Official Gazette, in two daily newspapers circulating in that locality … Section 4 nowhere contemplates that the name of the owner must be mentioned in the notification. This becomes further clear if one reads Section 5-A of the Act. Section 5-A starts with the words 'Any person interested in any land which has been notified under Section 4 sub-section (1)….' Thus it also refers to a person interested in a land which has been notified. Section 5-A does not say that the person whose name appears in the notification (sic must be the owner). This also shows that there is no obligation under Section 4 to mention the name of any person.
>
> 13. … **State of Karnataka v. Narasimhamurthy** (1995) 5 SCC 524 is directly on point. We are unable to accept the reasoning of the Division Bench that that case had no application. Even though the acquisition in that case was under the Karnataka Acquisition of Land for Grant of House Sites Act, 1972 the provisions of Section 3 (therein) are in pari materia with Section 4 of the Land Acquisition Act. This Court has categorically held that in such a notification the name of the owner need not be mentioned.

[13] (2007) 15 SCC 791

46. The ratio in the above judgment is squarely applicable to the facts of the case. Section 4 of the Land Acquisition Act, 1894 is in *pari materia* with Section 11 of the Act 30 of 2013. Thus, the contention of the learned counsel for the petitioners that the names of the petitioners were not mentioned in the preliminary notification does not require consideration on merits. Thus, the said contention falls on its face.

47. **Whether issuance of notice under Section 15 of the Act r/w Rule 21 of the Rules in Form VI (B) is mandatory?**

48. The next stage is issuance of notice in terms of Section 15(1) of the Act read with Rule 21 of the A.P. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules 2014(hereinafter referred to as "**the Rules**").

49. Section 15(1) of the Act entitles any person interested in land notified under Section 11(1) to object, within sixty days of the preliminary notification, to the extent of,

(a) the area and suitability of the land proposed to be acquired,

(b) the justification offered for the public purpose, and

(c) the findings of the Social Impact Assessment report.

50. Under Section 15(2), the Collector must give the objector an opportunity of being heard in person, through an authorised person, or through an Advocate. After hearing and making such further inquiry as he thinks necessary, the authority must report its recommendations to the appropriate Government. Section 15(3) makes the decision of the appropriate Government on the objections final.

51. Rule 21(1) of the Rules provides that the Collector "**shall issue a notice in Form-VI(B)**" and, after hearing all objections and making the enquiry contemplated by Section 15(2), shall submit its report with recommendations. The Form, which is expressed to be "under Section 15(2)

of the Act read with Rule 21", intimates the objectors of the date and place at which the objections will be enquired into. It also gives them the opportunity to appear and adduce evidence in support. Form VI(B), which plays a vital role, is extracted below for better understanding:

Form No. VI (B)

[under Section 15(2) of the Act read with Rule 21]

Notice

Rc. No. .....

Dated .....

Notice is hereby given that the land specified in the appended schedule and situated in the village of ..... in the Mandal ..... in the District of ..... is needed or is likely to be needed in accordance with the notification under Section-11(1) of the Act published by the District Collector at page ..... of part I of the Andhra Pradesh Gazette, dated ..... **All persons interested in the land are accordingly required to lodge their objections before .... within sixty (60) days from the date of publication of the above notification a statement in writing of their objection ..... ,if any, to the acquisition of the said land.**

Any objection statement which is received after the due date or which does not clearly explain the nature of the senders interest in ..... the lands is liable to be summarily rejected.

Objections received within the due date, if any, will be enquired into on ..... at ..... when ..... the objectors will be at liberty to appear in person or by Advocate and to adduce any oral or documentary evidence in support of their objections.

Schedule

Sl.No.	Survey No.	Total Extent A.Cs.	Extent Under Acquisition A.Cs.	Name & address of the person interested	Boundaries N.S.E.W	Details of Trees, Structures etc., if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Collector
Place :
Date :

52. It is pertinent to mention here that Rule 21(1) of the Rules uses the word "**shall**", and the Form has been prescribed in alignment with the statutory Rules. Though Section 11 does not prescribe any notice, a harmonious reading of the Rule and the content of Form-VI-B shows that issuance of the notice to the owner of the property, pursuant to the preliminary notification under Section 11(1) of the Act, is mandatory, not directory.

53. Form-VI(B) is not an independent or ancillary requirement. It is the means by which the statutory right under Section 15(2) is made available to the objector. A rule that gives effect to a statutory right of hearing partakes of the nature of that right and is equally mandatory. The declaration under Section 19 shall be made on the premise that the Collector's report on the objections has been considered. If no valid notice was issued and no hearing was afforded, the report is non-est in law, and the declaration founded upon it gets vitiated. As the precedents referred to above observe, a violation of Section 15 goes to the root of the acquisition and cannot be cured by a post-decisional hearing.

54. Section 15 of the Act 30 of 2013 is *in para meteria* with Section 5A of the Land Acquisition Act, 1894, and the settled jurisprudence on that provision applies with equal force. The Hon'ble Apex Court has held that the right to file objections and to be heard is not a mere administrative formality. It is a substantive right of the owner, given as the minimal safeguard against the exercise of the State's power of eminent domain.

55. Reference may be made to the case of **Nandeshwar Prasad Vs. State of U.P.**[14], wherein the Hon'ble Apex Court observed that the right to file objections under Section 5-A is a substantial right when a person's property is being threatened with acquisition.

[14] AIR 1964 SC 1217 : (1964) 3 SCR 425

56. In **Munshi Singh Vs. Union of India**[15], the importance of the rule of hearing embodied in Section 5-A was highlighted by the Hon'ble Apex Court in the following words:

> "*7. Section 5-A 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*. We may refer to the observation of this Court in *Nandeshwar Prasad* v. *State of U.P.* [AIR 1964 SC 1217 : (1964) 3 SCR 425] that the right to file objections under Section 5-A is a substantial right when a person's property is being threatened with acquisition and that right cannot be taken away as if by a side wind. *Sub-section (2) of Section 5-A makes it obligatory on the Collector to give an objector an opportunity of being heard. After hearing all objections and making further inquiry he is to make a report to the appropriate Government containing his recommendation on the objections. The decision of the appropriate Government on the objections is then final. The declaration under Section 6 has to be made after the appropriate Government is satisfied, on a consideration of the report, if any, made by the Collector under Section 5-A(2)*. The legislature has, therefore, made complete provisions for the persons interested to file objections against the proposed acquisition and for the disposal of their objections."

57. In **State of Punjab Vs. Gurdial Singh**[16], the Hon'ble Apex Court observed thus:

> "16. … it is fundamental that compulsory taking of a man's property is a serious matter and the smaller the man the more serious the matter. Hearing him before depriving him is both reasonable and pre-emptive of arbitrariness, and denial of this administrative fairness is constitutional anathema except for good reasons."

58. In **Surinder Singh Brar Vs. Union of India**[17]**,** the Hon'ble Apex Court held as under:

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[15] (1973) 2 SCC 337
[16] (1980) 2 SCC 471

"84. What needs to be emphasised is that hearing required to be given under Section 5-A(2) to a person who is sought to be deprived of his land and who has filed objections under Section 5-A(1) must be effective and not an empty formality. The Collector who is enjoined with the task of hearing the objectors has the freedom of making further enquiry as he may think necessary. In either eventuality, he has to make report in respect of the land notified under Section 4(1) or make different reports in respect of different parcels of such land to the appropriate Government containing his recommendations on the objections and submit the same to the appropriate Government along with the record of proceedings held by him for the latter's decision. The appropriate Government is obliged to consider the report, if any, made under Section 5-A(2) and then record its satisfaction that the particular land is needed for a public purpose. This exercise culminates into making a declaration that the land is needed for a public purpose and the declaration is to be signed by a Secretary to the Government or some other officer duly authorised to certify its orders. The formation of opinion on the issue of need of land for a public purpose and suitability thereof is sine qua non for issue of a declaration under Section 6(1). Any violation of the substantive right of the landowners and/or other interested persons to file objections or denial of opportunity of personal hearing to the objector(s) vitiates the recommendations made by the Collector and the decision taken by the appropriate Government on such recommendations. The recommendations made by the Collector without duly considering the objections filed under Section 5-A(1) and submissions made at the hearing given under Section 5-A(2) or failure of the appropriate Government to take objective decision on such objections in the light of the recommendations made by the Collector will denude the decision of the appropriate Government of statutory finality. To put it differently, the satisfaction recorded by the appropriate Government that the particular land is needed for a public purpose and the declaration made under Section 6(1) will be devoid of legal sanctity if statutorily engrafted procedural safeguards are not adhered to by the authorities concerned or there is violation of the principles of natural justice. The cases before us are illustrative of flagrant violation of the mandate of Sections 5-A(2) and 6(1). Therefore, the second question is answered in the affirmative.

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[17] (2013) 1 SCC 403

59. Thus, an opportunity of hearing contemplated by Section 15(2) must be real and effective, and not illusory and an empty formality. An opportunity of being heard presupposes prior intimation of the date, time and place of the enquiry. A hearing without notice is a contradiction in terms, because an objector who is unaware of the date of enquiry cannot appear, assist the Collector, or place material before him. Notice is therefore the foundation of the hearing, and the right to be heard cannot be exercised without it.

60. **Whether non-updation of revenue records under Section 11(5) of the Act and failure to conduct survey under Section 12 of the Act would vitiate the proceedings?**

61. Further, Section 11(5) of the Act casts a duty on the Collector, after the issue of the notification under Section 11(1) and before the issue of the declaration under Section 19, to undertake and complete the exercise of updating of land records as prescribed, within a period of two months. **Rule 19** of the Rules provides for the publication of the preliminary notification in Form VI in the manner laid down in Section 11, and **Rule 21(1)** requires the Collector to issue a notice in Form VI(B) and, after hearing all the objections and making the enquiry under Section 15(2), to submit a report along with his recommendations on the objections to the District Collector for decision. One more step in the procedure in between, the requirement under Section 11(5) of updating the land records gains significance.

62. Had the statutory authority carried out its obligation under Section 11(5) of the Act, the names of the petitioners, who had purchased the plots under registered sale deeds of the year 2016 in a layout duly approved by the Visakhapatnam Urban Development Authority, and who were in actual and physical possession thereof, would have found a place in the record and in the schedule to the declaration. In the case at hand, such an exercise is conspicuously absent, as the material shows.

63. After publication under Section 11(1) of the Act, the appropriate government, i.e. the Collector, shall determine the extent of land to be acquired. Clauses (a) to (e) of Section 12 set out the procedure as to how such an exercise is to be done. The officers concerned shall enter upon the land; conduct a survey; set out boundaries by giving markings etc., The first proviso mandates that such an exercise must not be conducted in the owner's absence; the second proviso clarifies that the owner must be given a reasonable opportunity to be present during the survey.

64. Of course, the Act does not provide consequences for non-compliance. However, updating records identifies the persons interested, prevents disputes, and protects landowners; it also provides transparency and fairness when the authority exercises eminent domain. The survey of the land, including markings, makes ownership and the person interested more clearly discernible. In this Court's view, such a procedure aligns with the transparency required under the Act. The procedure prescribed in the Act under Sections 11 to 19 is interconnected. A violation of one step vitiates the others. Given the nature and scheme of the Act, these obligations on the part of the Collector must be treated as mandatory. Otherwise, the very purpose of acquisition, public purpose, would be frustrated.

65. Where the legislature, or the delegate acting under it, prescribes the manner in which a statutory power is to be exercised, the power must be exercised in that manner alone, or not at all. *[See **Taylor v. Taylor** (1875) 1 Ch D 426, adopted by the Privy Council in **Nazir Ahmad v. King Emperor** AIR 1936 PC 253 and followed in **State of U.P. v. Singhara Singh** AIR 1964 SC 358].* As this Court pointed out earlier, compulsory acquisition is an expropriatory power, and the procedure governing it must be construed strictly.

66. In this case, the authority failed to adhere to the procedure envisaged under Section 11(5) and Section 12 of the Act. Had the authority adhered to

the procedure envisaged, in its letter and spirit, the Declaration published under Section 19 of the Act would have been otherwise. The declaration would have reflected the correct names of the persons regarding ownership and possession, and the exact land that needs to be acquired for the said purpose.

67. The petitioners purchased the plots under registered sale deeds in 2016 in a layout duly approved by the Visakhapatnam Urban Development Authority, after the land was converted from agricultural to non-agricultural, and being in possession thereof, would have found a place in the Declaration published under Section 19 of the Act.

68. **The omission is even more glaring because the Land Acquisition Officer himself was aware that the land under acquisition was layout land. In the apportionment column at Serial No.16 of Form IX of Award No.7 dated 22.06.2022, the acquired land is described as "Ac. 3.70 cents Dry and Wet (LAY-Out) lands".** In the schedule annexed to the award proceedings, the column headed "Basic Value per Sq. Yard" records Rs.1,500/- for each subdivision in Sy.No.41. Yet the notification and the declaration continued to describe the vendor company as the enjoyer and the vendor's vendor's vendor as pleaded by the petitioners as the owners.

69. **The details of land notified as shown in the declaration in Form No.VII under Section 19 (1) of the Act are extracted hereunder:**

SCHEDULE

Sl. No.	**Survey & Sub-Divisional No.**	**Classification of land**	**Total Extent Ac**	**Land Acquired Ac**	**Name & details of the person whose land was acquired**	
1	**2**	**3**	**4**	**5**	**6**	
1.	**12-23A**	**wet**	**0.21**	**0.07**	**Jegupalli Venkata Krishna Rao S/o Apparao** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
2.	**12-24**	**wet**	**0.37**	**0.37**	**Pothina Kasulu S/o Chinna Suryanarayana** ***M/s Sukhibhava Sweet***	**Pattadar** **Enjoyer**

					Homes PVT Ltd.	
3.	**12-25**	**wet**	**0.24**	**0.24**	**Gari Guruvulu S/o Yellana** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
4.	**12-26**	**wet**	**0.05**	**0.05**	**Bevara Suryanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
5.	**12-27B**	**wet**	**0.10**	**0.02**	**Pilla Suryanarayana S/o Pydithalli** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
6.	**12-28B**	**wet**	**0.15**	**0.02**	**Rampilli VenkataSwami S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
7.	**12-29**	**wet**	**0.05**	**0.05**	**Bevara RamanaRao S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
8.	**12-30**	**wet**	**0.06**	**0.06**	**Bevara Venkatanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
9.	**12-32B**	**wet**	**0.93**	**0.25**	**Jegupalli Venkata Krishna Rao S/o Apparao** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
10.	**41-2B**	**wet**	**0.11**	**0.10**	**Rampilli Laxmunaidu S/o Venkataswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
11.	**41-3B**	**wet**	**0.21**	**0.05**	**Rampilli NarayanaRao S/o Sriramulu** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
12.	**41-4A**	**wet**	**0.40**	**0.34**	**Gari Guruvulu S/o Yellana** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
13.	**41-5A**	**wet**	**0.15**	**0.09**	**Bevara Vijaya W/o Venkataramana** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
14.	**41-6A**	**wet**	**0.10**	**0.02**	**Bevara Vijaya W/o Venkataramana** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
15.	**41-7**	**wet**	**0.23**	**0.23**	**Bevara Vijayamma W/o Venkataramana** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**

16.	**41-8B**	**wet**	**0.17**	**0.08**	**Bevara RamanaRao S/o AppaRao** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
17.	**41-9B**	**wet**	**0.15**	**0.05**	**Bevara Venkatanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
18.	**41-10B**	**wet**	**0.08**	**0.03**	**Bevara Suryanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
19.	**41-11B**	**wet**	**0.05**	**0.02**	**Bevara Venkatanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
20.	**41-12B**	**wet**	**0.12**	**0.03**	**Bevara Venkatanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
21.	**41-13**	**wet**	**0.05**	**0.05**	**Bevara Suryanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
22.	**41-14A**	**wet**	**1.06**	**0.66**	**Gari Guruvulu S/o Yellayya** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
23.	**41-17A**	**wet**	**0.07**	**0.06**	**Bevara Venkatanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
24.	**41-18**	**wet**	**0.10**	**0.10**	**Bevara RamanaRao S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
25.	**41-19**	**wet**	**0.03**	**0.03**	**Bevara Venkatanarayana S/o Appalaswami** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
26.	**41-20B**	**wet**	**1.16**	**0.62**	**Bevara Vijayamma W/o Venkataramana** ***M/s Sukhibhava Sweet Homes PVT Ltd.***	**Pattadar** **Enjoyer**
			Total	**3.70**		

70. After the Declaration under Section 19(1) of the Act, as noted *supra*, the notices under Sections 21(4) and 22 were addressed to the alleged landowner and were pasted on the wall of the subject land. Nothing on record shows that any notice was ever issued to the petitioners, who are in occupation of the

plots. At this juncture, it is pertinent to mention that pasting the notice on the wall itself demonstrates the existence of a compound wall around the plots. This Court had to presume that the authorities concerned were aware of the layout and division of the plots; however, without verifying the revenue records, they proceeded with the acquisition by exercising the power under eminent domain and thus frustrated the provisions of the Act. The presumption recorded, *per se*, is not a solitary ground to interdict the proceedings.

71. In the case at hand, the Record of Rights of the year 2015 stood in the name of the vendor company, the layout had been approved in 2015, the conversion proceedings of the Revenue Divisional Officer were of the year 2016, and the award itself describes the land as layout land with a basic value of Rs.1,500/- per square yard. These circumstances establish that the authorities knew the land comprised approved layout plots and that persons other than the recorded pattadars and the respective vendees occupied it.

72. In **M/s. Ahuja Industries vs State of Karnataka**[18]**,** the Hon'ble Apex Court carved out an express exception to the rule that service on the recorded owner is sufficient, holding that such service suffices *"unless it is substantiated otherwise that the authorities concerned had the knowledge of the rights or interest of any person other than those found recorded as owner/occupier in the Revenue Records".* The exception carved out in **Ahuja Industries** case, therefore, is attracted to the facts of this case.

THE RIGHT TO OBJECT TO THE PROPERTY IS NOT AN EMPTY FORMALITY:

73. Let this Court, now, deal with the procedure under Section 15 of the Act, i.e. objections and right to be heard, etc. The right to object is not an empty formality. Section 15 of the Act, which enables a person interested to file objections to the acquisition within sixty days and mandates the Collector to

[18] AIR 2003 SC 2519

give the objector an opportunity of being heard in person or by any person authorised by him or by an Advocate, is in *pari materia* with Section 5-A of the 1894 Act. In **Munshi Singh** (*supra*), the Hon'ble Apex Court held in paragraph 7 of the judgment as follows:

> 7. Section 5-A 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. We may refer to the observation of this Court in Nandeshwar Prasad v. State of U.P., AIR 1964 SC 1217 that the right to file objections under Section 5-A is a substantial right when a person's property is being threatened with acquisition and that right cannot be taken away as if by a side wind.

74. It is pertinent to refer to **Hindustan Petroleum Corpn. Ltd.** (*supra*) wherein the Hon'ble Apex Court held as follows:

> 6. It is not in dispute that Section 5-A of the Act confers a valuable right in favour of a person whose lands are sought to be acquired. Having regard to the provisions contained in Article 300-A of the Constitution, the State in exercise of its power of "eminent domain" may interfere with the right of property of a person by acquiring the same but the same must be for a public purpose and reasonable compensation therefor must be paid.
>
> 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.

75. In **Surinder Singh Brar** (*supra*) the Hon'ble Apex Court carried the principle further and held as follows:

> 84. … Any violation of the substantive right of the landowners and/or other interested persons to file objections or denial of opportunity of personal hearing to the objector(s) vitiates the recommendations made by the Collector and the decision taken by the appropriate Government on such recommendations. … To put it differently, the satisfaction recorded by the appropriate Government that the particular land is needed for a public purpose and the declaration made under Section 6(1) will be devoid of legal sanctity if statutorily engrafted procedural safeguards are not adhered to by the authorities concerned or there is violation of the principles of natural justice.

76. Likewise, in **Union of India Vs. Shiv Raj**[19]**,** the Hon'ble Apex Court summarised the settled legal position in paragraphs 8 to 10 of the judgment as follows:

> 8. The rules of natural justice have been ingrained in the scheme of Section 5-A of the Act 1894 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

[19] (2014) 6 SCC 564

land. Section 5-A(2) of the Act 1894, 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 Act 1894 or that there are other valid reasons for not acquiring the same. … On the consideration of the said objection, the Collector is required to make a report. The State Government is then 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) of the Act 1894.

9. Therefore, Section 5-A of the Act 1894 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 Act, 1894 confers a valuable important right and having regard to the provisions, contained in Article 300A of the Constitution of India has been held to be akin to a fundamental right.

10. Thus, the limited right given to an owner/person interested under Section 5-A of the Act, 1894 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 Act, 1894.

77. To the same effect is the judgment of the Hon'ble Apex Court in **J&K Housing Board Vs. Kunwar Sanjay Krishan Kaul**[20] and **Kulsum R.Nadiadwala Vs. State of Maharashtra**[21].

78. In **Alok Kotahwala Vs. Jaipur Metro Rail Corporation Ltd.**,[22] the Hon'ble Apex Court considered the sub-rights that together constitute the constitutional guarantee against arbitrary deprivation of property in **Kolkata**

[20] (2011) 10 SCC 714
[21] (2012) 6 SCC 348
[22] 2026 SCC OnLine SC 1324

Municipal Corporation's case, (referred to *supra*) and, in that context, quoted with approval the following passage on the right to notice reproduced as under:

> **33.1.** ***The Right to notice***
>
> **33.1.1.** A prior notice informing the bearer of the right that the State intends to deprive them of the right to property is a right in itself; a linear extension of the right to know embedded in Article 19(1)(*a*). The Constitution does not contemplate acquisition by ambush. The notice to acquire must be clear, cogent and meaningful. Some of the statutes reflect this right.

79. That judgment, however, also furnishes the standard against which a complaint of want of notice is to be tested. Referring to **New Okhla Industrial Development Authority Vs. Darshan Lal Bohra**[23]**,** in paragraph 34, the Hon'ble Apex Court held that even where the notices were not served as per the procedure known in law, that by itself may not vitiate the acquisition proceedings unless it is shown that severe prejudice was caused to the landowners, and it declined relief for the reason that the landowners there had due notice of the proceedings and had filed detailed objections within the prescribed time, so that no prejudice had been caused. The question, therefore, is whether the petitioners before this Court have suffered prejudice.

80. The discipline of the enquiry is set out in **State of U.P. Vs. Sudhir Kumar Singh**[24]**,** where the Hon'ble Apex Court summarised the law in the following words:

> "42.2. Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

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[23] 2024 SCC OnLine SC 1690
[24] 2020 SCC OnLine SC 847

81. When the appropriate government exercises its jurisdiction under eminent domain, the only protection available to a citizen is the right to object to the acquisition by filing objections. Section 15 of the Act provides for this. It is conceived not merely in the individual interest of the objector but in the public interest, so that the acquisition of land is preceded by a consideration of the objections of those who are to lose it. The infraction, therefore, does not require proof of prejudice.

82. In this case at hand, the petitioners were denied the opportunity of objecting to the area and suitability of the land proposed to be acquired, to the justification offered for the public purpose and to the findings of the Social Impact Assessment report, all of which are grounds expressly available under Section 15(1). They were denied the opportunity to place before the Collector their title deeds and their claim that the land is house-site plots in an approved layout. The land was valued at Rs.7,40,000/- per acre as dry and wet agricultural land, although the schedule to the very award records a basic value of Rs.1,500/- per square yard for the self-same sub-divisions. A person denied a hearing and then met with such an award has suffered ‘prejudice’ in the sense in which the Hon’ble Apex Court used that expression in the judgments referred to *supra*.

83. The course to be adopted in such a case was indicated by the coordinate Bench of this Court in **Pedamalli Venugopal Reddy** (*supra*), which held in paragraph 14 as follows:

> 14. In the present case, it could be argued that a personal hearing would have made no difference to the case of the petitioners and may not cause prejudice to their interest … However, the guideline No. 2, set out above also stipulates that where there is a mandatory provision of law which is conceived not only in individual interest, but also in public interest, requiring a personal hearing, any violation of such a requirement would have to be treated as a violation of principles of natural justice requiring the said process to be set-aside, irrespective of whether a prejudice can be demonstrated or not. Section 15 of the Act

> has been incorporated to ensure that the public authorities exercising the right of Eminent Domain of the State shall take care to see that the property of a person shall not be taken away without hearing the objections of such a person. … As such, this requirement under section 15 would have to be treated as a mandatory requirement conceived in public interest.

84. The operative direction in that case was that the challenge to the notification issued under Section 11 was rejected while the declaration issued under Section 19 was set aside, leaving it open to the authority to give a personal hearing to the petitioners and thereafter to determine whether a declaration under Section 19 could be issued or not.

FAILURE TO FOLLOW PROCEDURE VIS-À-VIS AWARD ENQUIRY:

85. The award enquiry envisaged under the Act is a distinct and final stage of the process, and the Act prescribes it with particularity. Section 20 requires the Collector to cause the land to be marked out and measured and, where no plan has been made, to have one made. Section 21 requires a public notice stating that the Government intends to take possession of the land and that claims to compensation and rehabilitation and resettlement may be made, and sub-section (2) requires that notice to state the particulars of the land so needed and to require all persons interested to appear before the Collector and to state the nature of their respective interests and the amount and particulars of their claims. Sub-section (4) requires notice to be served on the occupier and on all such persons known or believed to be interested therein. Section 22 gives the Collector the power to require a statement as to the name of every other person possessing any interest in the land and the nature of that interest. Section 23 then obliges the Collector to enquire into the value of the land and into the respective interests of the persons claiming compensation, and to make an award of the true area of the land, the compensation, and the apportionment of that compensation among all the persons known or believed to be interested in the land, of whom, or of whose

claims, he has information, whether or not they have respectively appeared before him.

86. No doubt, in **May George** (*supra*), the Hon'ble Apex Court held that a notice under Section 9(3) of the Land Acquisition Act, 1894 is not mandatory in nature and that an irregularity in its service is a curable irregularity, since the person interested is entitled to compensation and may seek a reference for apportionment under Section 30. That authority does not apply to the respondents' case.

87. The vice in the case at hand is not the manner of service of a notice upon a person whose interest stood recorded, but the omission of the enquiry itself. The award neither recorded the petitioners, the other plot owners, as persons interested, nor apportioned the compensation among the persons known or believed to be interested, and proceeds upon the footing that the vendor company alone is entitled. The land acquisition authority determined the compensation treating the vendor of the petitioners as owner, though the Provisional Notification and Declaration showed the vendor of the petitioners as possessor.

88. Reverting to the case at hand, the award dated 22.06.2022 mentions the name of M/s Sukhibhava Sweet Homes Private Limited alone as the person interested and determines the whole of the compensation of Rs.72,78,879/- in its name. The award does not apportion that amount among the plot owners. The notices under Sections 21(4) and 22 were addressed to that company alone and were pasted on the wall of the layout, and no statement as to the names of the other persons interested was called for under Section 22. The power was thus exercised, not to ascertain who was interested in the land and to hear them before concluding the acquisition against them, but to conclude it against persons whom the record identified and whom the authority chose not to notice. The infractions noted *supra* at different stages of acquisition proceedings amply demonstrated that the

proceedings, at least from the stage of Section 15 of the Act, suffer from the vice of colourable exercise of power.

PLEADINGS IN THE WRIT PETITIONS AND THE EFFECT OF EVASIVE DENIAL AND NON-TRAVERSE IN THE COUNTER-AFFIDAVITS:

89. At this juncture, it is also necessary to advert to the manner in which the respondents have traversed the specific factual averments raised by the petitioners in their writ affidavits. In paragraphs 3 to 6 of the writ affidavit in W.P.No.23527 of 2024 and paragraphs 3 to 8 of the writ affidavit in W.P.No.25777 of 2024, the petitioners specifically pleaded and annexed documentary proof establishing that the subject land was purchased by the vendor company under registered sale deeds of the year 2014, that the name of the company was mutated in the Form 1-B Record of Rights under Khata No.100001 dated 20.06.2015, that the land was converted to non-agricultural purpose by the proceedings of the Revenue Divisional Officer, Vizianagaram *vide* D.Dis.No.835/2016/C dated 26.07.2016, that the Visakhapatnam Urban Development Authority approved the residential layout *vide* L.P.No.63/2015 dated 04.07.2015, that the petitioners purchased Plot No.24 and Plot No.43-A under registered sale deeds bearing Document No.102 of 2016 dated 07.01.2016 and Document No.6882 of 2016 dated 18.11.2016 respectively, and that no notice was served on them at any stage of the acquisition proceedings. Further, in paragraphs 10 to 15 of the writ affidavit in W.P.No.25777 of 2024, the petitioner specifically pleaded that the Collector failed to update the land records within two months from the date of publication of the preliminary notification as mandated under Section 11(5) of the Act, failed to follow the procedure under Section 12, and failed to afford any opportunity of hearing under Section 15 of the Act.

90. In the counter-affidavit filed by the 3rd respondent, the reply to paragraphs 5 to 8 of the writ affidavits is contained in paragraph 4, which reads as follows,

> 4. In reply to Paras 5 to 8, it is respectfully submitted that the petitioners' averments in Para 5 to 8 of the affidavit are not true and correct.

91. Except for that bare and omnibus sentence, the counter-affidavit does not deal with or dispute the registered sale deeds of the year 2016, the Form 1-B Record of Rights dated 20.06.2015, the non-agricultural conversion proceedings of the Revenue Divisional Officer dated 26.07.2016 or the layout approval. Paragraph 9 of the writ affidavit is met, in paragraph 7 of the counter-affidavit, with a general assertion that the petitioner never raised any objection. Paragraphs 10 to 15 of the writ affidavit, which specifically raise the grounds of non-updation of land records under Section 11(5) and denial of opportunity under Section 15 of the Act, are not refuted at all. The only answer in the counter-affidavits to the charge of procedural irregularity is the general statement, in paragraph 8, that the Land Acquisition Officer followed the due procedure laid down in the Act.

92. Pleadings, even in writ proceedings, play a vital role. While pointing out the importance of pleadings and supporting evidence in writ petitions and counter-affidavits, the Hon'ble Apex Court in **Bharat Singh Vs. State of Haryana**[25]**,** observed in paragraph 13 of the judgment as follows:

> 13. …In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the court will not entertain the point. In this context, it will not be out of place to point out that in this regard there is a distinction between a pleading under the Code of Civil Procedure and a writ petition or a counter-affidavit. While in a pleading, that is, a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ

[25] (1988) 4 SCC 534

> petition or in the counter-affidavit not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it.

93. Further, it is a settled proposition of law that where specific factual averments made in a writ affidavit are not controverted in the counter-affidavit or are met only with a vague and evasive denial, the Court must proceed on the basis that those averments stand admitted by the respondents. In **Smt.Naseem Bano Vs. State of U.P.**[26]**,** the Hon'ble Apex Court held in paragraph 11 of the judgment as follows:

> 11. … Since no dispute was raised on behalf of Respondents 1 to 4 in their reply to the averments made by the appellant in the writ petition that 40% of the total number of posts had not been filled by promotion inasmuch as the said averments had not been controverted, the High Court should have proceeded on the basis that the said averments had been admitted by respondents.

94. Similarly, on the principle underlying Order VIII Rules 3 and 5 of the Code of Civil Procedure that an evasive or general denial amounts to an admission of the allegation of fact, the Hon'ble Apex Court in **Jaspal Kaur Cheema Vs. Industrial Trade Links**[27]**,** observed in paragraph 7 of the judgment as follows:

> 7. In terms of Order 8 Rule 3 of the Code of Civil Procedure, 1908 (for short "the Code"), a defendant is required to deny or dispute the statements made in the plaint categorically, as evasive denial would amount to an admission of the allegation made in the plaint in terms of Order 8 Rule 5 of the Code. In other words, the written statement must specifically deal with each of the allegations of fact made in the plaint. The failure to make specific denial amounts to an admission. This position is clear from the decisions of this Court in **Badat and Co. v. East India Trading Co**. [(1964) 4 SCR 19 : AIR 1964 SC 538] , **Sushil Kumar v. Rakesh Kumar** [, (2003) 8 SCC 673] and **M. Venkataramana Hebbar v. M. Rajagopal Hebbar** [(2007) 6 SCC 401] .

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[26] 1993 Supp (4) SCC 46
[27] (2017) 9 SCC 702

95. Therefore, the respondents have neither specifically traversed those factual averments nor produced any record to show that they exercised the power to update the land records under Section 11(5) and conduct a survey under Section 12 of the Act. The one-line general denial in the counter-affidavits, and the silence on paragraphs 10 to 15 of the writ affidavit in W.P.No.25777 of 2024, amount to an evasive denial and non-traverse in law, resulting in the deemed admission of the factual averments pleaded by the petitioners.

QUESTION OF DELAY AND LACHES:

96. Indeed, the acquisition is for a public purpose, namely excavation of the Right Main Canal, and the petitioners do not dispute the public purpose. No doubt, the petitioners approached this Court only in the year 2024. But a person who is never put on notice of a proceeding cannot be accused of sleeping over his rights, and in such cases, the delay is the consequence of the authority's failure to bring the proceeding to his knowledge. The sixty-day period cannot be imposed on a person who was never called upon to object, as mandated in Form VI-B and the Rules. Thus, the learned Government Pleader's contention merits no consideration.

97. One of the contentions urged by the learned counsel for the petitioners is that without conducting Social Impact Assessment, as mandated under Chapters II and III of the Act, the 2nd respondent issued the preliminary notification under Section 11 (1) of the Act. Thus, the preliminary notification itself is vitiated. The learned Government Pleader for Land Acquisition rebutted this contention and submitted that the acquisition is for irrigation purposes and, hence, Chapter-III (A), i.e., Section 10-A of the Act, would apply. This Court finds force in the said submission.

RESULT:

98. Given the discussion *supra*, this Court is of the considered opinion that the preliminary notification dated 18.02.2021 under Section 11(1) of the Act does not suffer from any infirmity for the omission of the names of the petitioners. But the proceedings thereafter, i.e. the Declaration dated 14.06.2021 and the Award No.7 dated 22.06.2022, cannot be sustained, since they were made without updating the land records under Section 11(5) and Survey under Section 12 and without affording to the petitioners the opportunity of filing objections and of being heard under Section 15 of the Act. Even the compensation fixed is also contrary to the procedure. **However, this Court is not going into that aspect in detail at this juncture, given the discussions *supra*.** The petitioners, being the persons in possession and enjoyment of the plots, ought to have been heard before the acquisition was concluded against them.

99. Accordingly, the declaration issued under Section 19(1) of the Act 30 of 2013 *vide* Rc.No.1647/2020/G2 dated 14.06.2021 and Award No.7 dated 22.06.2022, insofar as they relate to the plots purchased by the petitioners, are **set aside**. The 2nd and 3rd respondents are directed to:

(i) Update the record as contemplated under Section 11(5) of the Act and conduct a survey in terms of Section 12 of the Act.

(ii) Issue notice to the petitioners and to the other plot owners, if any, in the layout L.P.No.63/2015, as prescribed under the Act,

(iii) Afford the petitioners an opportunity of filing objections under Section 15 of the 2013 Act and of being heard in person,

(iv) Consider the objections, including the plea that the acquired land comprises house site plots in an approved layout, and pass a reasoned order thereon, and

(v) Thereafter proceed with the acquisition from that stage in accordance with law.

100. It is made clear that this Court has not expressed any opinion on the quantum of compensation or on the rate at which it is to be determined, whether on an acreage basis or on a square yard basis, and it is for the respondent authorities to consider all the objections and material to be placed or produced by the petitioners and determine the same in accordance with the provisions of the Act. It is also made clear that the observation in this order as to the basic value recorded in the schedule to the award is only for the purpose of appreciating the plea of prejudice and shall not be treated as a finding on the market value of the land.

101. In the result, all the Writ Petitions are allowed in part to the extent indicated above. No order as to costs.

102. This Court records its displeasure/aghastness vis-à-vis the acquisition proceedings for a public purpose, at the cost of the public exchequer, due to the fault of the concerned officials. The learned 1st respondent, in its wisdom, shall look into the matter and initiate necessary disciplinary proceedings against the concerned officials for their apathy in adhering to the procedure mandated under the Act.

As a sequel, all the pending miscellaneous applications shall stand closed.

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JUSTICE SUBBA REDDY SATTI

NOTE: LR Copy to be marked
B/O
PVD

Whether the order is:

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No