



**HIGH COURT OF ANDHRA PRADESH**  
MONDAY ,THE FOURTEENTH DAY OF JUNE  
TWO THOUSAND AND TWENTY ONE

**PRESENT**

**THE HONOURABLE SRI JUSTICE M.VENKATA RAMANA**

**WRIT PETITION NO: 18829 OF 2019**

**Between:**

1. Lanka Prabhakar Rao, S/o. Nageswara Rao, Aged about 59 years, Occ-Agriculture, R/o. D.No.2-265, Venkatapalem Village, Thulluru Mandal, Guntur District.
2. Mandhadapu Annapumamma, W/o. Venkatanarsaiah, Aged about 83 years, Occ- Housewife, R/o. D.No.2-222, Venkatapalem Village, Thulluru Mandal, Guntur District.
3. Gurram Nageshwara Rao, S/o. Subbarao, Aged about 70 years, Occ-Agriculture, Rio. D.No.2-282, Venkatapalem Village, Thulluru Mandal, Guntur District.
4. Lanka Sambasiva Rao, S/o. Gopala Rao, Aged about 62 years, occ-Agriculture, Rio. D.No.2-296, Venkatapalem Village, Thulluru Mandal, Guntur District.
5. Lanka Srinivasa Rao, S/o. Gopala Rao, Aged about 58 years, Occ-Agriculture, R/o. D.No.2-268, Venkatapalem Village, Thulluru Mandal, Guntur District.
6. Lanka Ramesh Babu, S/o. Gopala Rao, Aged about 55 years, Occ-Agriculture, R/o. D.No.3-434-3, Inakudurupeta, Machilipatnam - 521001, Krishna District.
7. Lanka Raghunadha Rao, S/o. Nageswara Rao, Aged about 64 years, Qcc- Agriculture, R/o. D.No.2-297, Venkatapalem Village, Thulluru Mandal, Guntur District.
8. Lanka Venkatalaxmi, W/o. Satyanarayana, C/o. Lanka Prabhakara Rao, Aged about 60 years, Occ- Housewife, R/o. D.No.2-265, Venkatapalem Village, Thulluru Mandal, Guntur District.
9. Lanka Sambasiva Rao, S/o. Koteswara Rao, Aged about 56 years, Occ-Agriculture, Rio. D.No.2-174, Venkatapalem Village, Thulluru Mandal, Guntur District.
10. Lanka Srikanth, S/o. Sambasiva Rao, Aged about 45 years, Occ-Agriculture, Rio. D.No.2-174, Venkatapalem Village, Thulium Mandal, Guntur District.
11. Lanka Venkateswara Rao, S/o. Narasimha Rao, Aged about 58 years, Occ- Agriculture, Rio. D.No.2-149, Venkatapalem Village, Thulium Mandal, Guntur District.
12. Lanka Srinivasa Rao, S/o. Seshagiri Rao, Aged about 51 years, Occ-Agriculture, R/o. D.No.3-115, Venkatapalem Village, Thulium Mandal, Guntur District.
13. Vepuri Satyavathi, W/o. Sambasiva Rao, Aged about 52 years, Occ- Housewife, Rio. D.No.6-126, Thulium Village, Thulium Mandal, Guntur District.
14. Aluri Venkatramaiah, S/o. Venkateswara Rao, Aged about 60 years, Qcc-Agriculture, Rio. D.No.4-76, Mandadam Village, Thulium Mandal, Guntur District.



15. Manchikalapudi Sambasiva Rao, S/o. Laxminarasimha Rao, Aged about 48 years, Occ- Agriculture, D.No.2-310, Venkatapalem Village, Thulluru Mandal, Guntur District.
16. Lanka Janaiah, S/o. Seshagiri Rao, Aged about 59 years, Qcc- Agriculture, Rio. Flat No.101, Akshitha Enclave, Kutumbarao Street, Machavaram Down, Vijayawada 520004, Krishna District.
17. Dr. Borra Venkateswara Rao, S/o. Sivarama Krishnaiah, Aged about 56 years, Occ- Doctor, C/o. Sivarama Krishna Nursing Home, Door No.29-25-33, Vemurivari Street, Suryaraopeta, Vijayawada-2, Krishna District.
18. Borra Madhusudhana Rao @ Madhu, S/o. Sivarama Krishnaiah, Aged about 49 years, Occ- Agriculture, C/o. Sivarama Krishna Nursing Home, Door No.29-25-33, Vemurivari Street, Suryaraopeta, Vijayawada-2, Krishna District, Rep. by his GPA holder Borra Venkateswara Rao.
19. Aluri Swarajya Lakshmi, W/o. Gangadhara Rao, aged about 60 years, Occ- Housewife, Rio. Flat No.308, Surya Towers, Near Bus Stop, Guntupalli Village, Ibrahimpatnam Mandal, Krishna District.
20. Pathuri Laxminarayana, S/o. Ramaiah, Aged about 60 years, Occ- Agriculture, R/o. D.No.2-40, Mandadam Village, Thulluru Mandal, Guntur District.
21. Aluri Madhusudhana Rao, S/o. Tirapathaiah, Aged about 75 years, Occ- Agriculture, R/o. D.No.1-64, Mandadam Village, Thulluru Mandal, Guntur District.
22. Dr. Vunnam Sarala, W/o. Vijaya Gopal, Aged about 56 years, Occ- Doctor, C/o. Vunnam Vijayalaxmi, Flat No.501, Pragathi Enclave, 3rd Line, Jayaprakash Nagar, Vijayawada, Krishna District, Rep. by her GPA holder Vunnam Vijayalaxmi.
23. Kadiyala Rajeshwari, W/o. Narasimha Rao, Aged about 55 years, Occ- Housewife, R/o. D.No.2-250, Venkatapalem Village, Thulluru Mandal, Guntur District.
24. Manchikalapudi Venkata Krishna Rao, S/o. Laxminarasimha Rao, Aged about 53 years, Occ- Agriculture, Rio. D.No.2-232, Venkatapalem Village, Thulluru Mandal, Guntur District.
25. Gurram Bharathi, W/o. Laxmaiah, Aged about 60 years, Occ- Housewife, Rio. D.No.3-56, Venkatapalem Village, Thulluru Mandal, Guntur District.
26. Yarlagadda Tejaswini, W/o. Harishchandra Prasad, Aged about 56 years, Occ- Housewife, Rio. D.No.32-9-17, Madhu Malaxmi Chambers, 4th Floor, Moghalrajapuram, Vijayawada-520010.
27. Guduri Prameela, W/o. Raghava Rao, Aged about 80 years, Occ- Housewife, Rio. D.No.64-3-19, Patamatalanka, Girls High School, Vijayawada-10.
28. Boppana Rajani, W/o. Suresh, Aged about 29 years, Qcc- Housewife, Rio. D.No.4-12, Penumaka Village, Tadepalli Mandal, Guntur District.
29. Lanka Siva Kumari, W/o. Madhava Rao, Aged about 70 years, Occ- Housewife, R/o. D.No.2-263, Venkatapalem Village, Thulluru Mandal, Guntur District.
30. Valluri Rajani, W/o. Ramesh Babu, Aged about 52 years, Occ- Housewife, R/o. D.No.64-9-17, Chennupati Ramakotaiah Street, Beside Ramalayam, Patamatalanka, Vijayawada, Krishna District.



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31. Musunuri Pushpalatha, W/o. Sivaramakrishna,  
Aged about 49 years, Occ- Housewife,  
Rio. D.No.59-5-1/2, Shanti Nilayam,  
Opp. MRF Tyres Showroom, Beside Govt. ITI College,  
Ashoknagar, Vijayawada, Krishna District.
32. Yarlagadda Harishchandra Prasad, S/o. Sriramulu, Aged about 60 years,  
Occ- Agriculture and Business, Rio. D.No.32-9-17, Madhu Malaxmi  
Chambers, 4th Floor, Moghalrajapuram, Vijayawada-520010.
33. Guduri Nageshwara Rao, S/o. Raghava Rao,  
Aged about 60 years, occ- Agriculture, R/o. D.No.64-3-19, Patamatalanka,  
Girls High School, Vijayawada-10.
34. Lanka Naveen Chakravarthi, S/o. Satyanarayana,  
C/o. Lanka Prabhakara Rao, aged about 33 years,  
Occ- Agriculture, R/o. D.No.2-263, Venkatapalem Village,  
Thulluru Mandal, Guntur District.

**...PETITIONER(S)**

**AND:**

1. Union of India, Ministry of Shipping,  
Road Transport and Highways, New Delhi, Rep. by its Secretary.
35. The National Highways Authority of India, G5 and 6, Sector-10, Dwarka,  
New Delhi - 110075, rep. by its Chairman.
36. The Project Director, Project Implementation Unit (PIU),  
National Highways Authority of India,  
Flat No.21, Teachers Colony, Vijayawada - 520008,  
Krishna District, Andhra Pradesh.
37. The Competent Authority (LA), NH-16(5) and Revenue Divisional Officer,  
Guntur, Andhra Pradesh.

**...RESPONDENTS**

**Counsel for the Petitioner(s): C V R RUDRA PRASAD**

**Counsel for the Respondents: HARINATH N (ASST SOLICITOR GENERAL)**

**The Court made the following: ORDER**

**HON'BLE SRI JUSTICE M.VENKATA RAMANA****WRIT PETITION No.18829 of 2019****ORDER**

The petitioners are challenging the award No.12/2013/NH-5 in Rc.No.4211/2011(SDT) dated 27.12.2013 and revised award No.06/2015/NH-5 in Rc.No.4211/2011(SDT) dated 16.11.2015 in this writ petition aggrieved on account of acquiring the lands claimed by them for the purpose of widening the existing 4-lane road in to 6-lanes of a stretch of National Highway No.5, particularly at Venkatapalem village.

**2.** An extent of 2,41,063 Sq.mtrs in Venkatapalem village of Tulluru Mandal, Guntur District was proposed for acquisition by the Central Government for public purpose for formation of Vijayawada bypass as a part of, for widening and extending 4-lane into 6-lane of National Highway No.5 from Vijayawada to Gundugolanu section from K.M.0-0040 to K.M.16.000 in exercise of its powers conferred by sub Section (1) of Section 3A of National Highways Act, 1956. An award was passed thereon in Rc.No.4211/2011(SDT), dated 27.12.2013 by the 4<sup>th</sup> respondent. It shall be called hereinafter as, 'the 1<sup>st</sup> award', for convenience.

**3.** In respect of an extent of land covering 9431 Sq.mts.of Venkatapalem village in Tulluru Mandal, Guntur District was acquired for the same purpose stated above by the Central Government invoking the same powers conferred under Section 3A(1) of the National Highways Act upon passing an award therefor by the 4<sup>th</sup> respondent in Rc.No.4211/2011(SDT), dated 16.11.2015. It shall be called hereinafter as, ' the 2<sup>nd</sup> award', for convenience.



4. The principal contention of the petitioners in questioning these awards, more particularly, with reference the 1<sup>st</sup> award is that the prescribed procedure under National Highways Act in terms of Section 3G and Section 3E was not followed and that they were not given an opportunity to present their claims in respect of their individual extents.

5. They further contended that they were directed to appear by notification published in 'The Hindu' English daily and 'Andhrajyothi' Telugu (Vernacular) daily pursuant to the public notice dated 10.01.2013 in respect of an alleged award enquiry under Section 3G(3) of the National Highways Act in the office of the 4<sup>th</sup> respondent at 11.00 a.m. Their further contention is that they did visit this office to file their objections where they were informed that another date would be fixed for such purpose, in respect of which personal notices would be issued for hearing. The petitioners further contended that no notices as such were issued nor any date was fixed depriving them of reasonable opportunity of presenting their claim.

6. Thus, the petitioners questioned the claim of the 4<sup>th</sup> respondent that an enquiry was conducted on 31.01.2012 where statements of land owners or enjoyers or their representatives were stated to have had been recorded. They also questioned the manner of mentioning such an enquiry in terms of Section 3G of the National Highways Act in the 1<sup>st</sup> award, followed by sub division measures upon survey.

7. Thus, the determination of the compensation by the 4<sup>th</sup> respondent is stated by the petitioners as just a paper work without duly following the prescribed procedure upon recording the statements of the land owners or enjoyers or the interested persons and which is not in



terms of Section 3-A to J of National Highways Act. In this process they also pointed out improper mentioning of names relating to petitioners nos.3,15,27,29,30,31 and 33.

**8.** The petitioners further contended that the procedure in terms of Section 3E of National Highways Act for taking over possession was not followed in as much as by the time of proposed action to take possession, there should be determination of compensation as well as deposit of the said sum to the credit of the competent authority viz., the 4<sup>th</sup> respondent. They also contended that never such amount determined was disbursed or distributed or paid to any of these land owners or users or enjoyers or persons interested.

**9.** Thus, the petitioners contended that the entire process was completed by the respondents as an empty formality to avoid application of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013), since there was likelihood of implementing and applying this Act to national highways. Thus, they claimed that only to peg-down the market value, such record was created. Thus, they claimed that on account of this action of the respondents they suffered immense loss and damage, who were deprived of just and appropriate compensation for their lands.

**10.** The petitioners further contended that in respect of the 2<sup>nd</sup> award, Act 30 of 2013 was applied and drawing a differentiation and distinction between the 1<sup>st</sup> award and 2<sup>nd</sup> award, though relate to the same proposal for acquisition, attracted application of Article-14 of the Constitution of India on account of the distinct discrimination, while offending their right to life in terms of Article -21 of the Constitution of



India. Thus, they contended that the entire process undertaken by the respondents is offending their constitutional rights under Article-300A of the Constitution of India.

**11.** Thus, on such grounds among others they contended that their claim with reference to the 1<sup>st</sup> award should be considered in terms of Act 30 of 2013, taking out fresh notification for acquiring their lands. They asserted that the respondents did not take possession of their lands and that they have been in their actual and effective possession of the lands even now.

**12.** Thus contending, they sought the relief in the nature of a writ or direction of mandamus declaring the action of the respondents with reference to these two awards as arbitrary, illegal, discriminatory, unjust, colourable exercise of power suffering from non-application of mind to the relevant Acts, violating principles of natural justice as well as the procedure under the National Highways Act (Act 30 of 2013), apart from attracting infraction of Articles 14,21 and 300-A of the Constitution of India and to set aside these two awards, directing the respondents not to interfere with their possession and enjoyment of the subject lands while directing to initiate fresh land acquisition proceedings in case the respondents require these lands.

**13.** By an interim order dated 25.11.2019 in I.A.No.1 of 2019, the respondents were directed not to dispossess the petitioners from their respective lands and it is in force.



**14.** The respondent no.3 including on behalf of the respondent no.2 and the respondent no.4 filed separate counter affidavits opposing this writ petition, while requesting to vacate the interim direction.

**15.** The main contention of these respondents is that the procedure in terms of the National Highways Act was duly followed without any breach, taking out necessary publications either in respect of the enquiry in terms of Section 3C or in terms of Section 3G(3) & (4) of National Highways Act. They further contended that some of the land owners, enjoyers or persons interested took part in these proceedings and that the 4<sup>th</sup> respondent upon considering the material, after following due procedure, passed the 1<sup>st</sup> award for Rs.13,84,28,826/-for the acquired lands of 2,41,063 sq.mtrs.of Venkatapalem village and that Rs.5,60,37,203/- out of it, was disbursed to some of the claimants. They also contended that with reference to missing extents covering 9431 Sq.mtrs., Rs.96,15,747/- was awarded by the 2<sup>nd</sup> award following due procedure in terms of Act 30 of 2013 which was then vogue and this amount was deposited to the joint account of the 3<sup>rd</sup> and 4<sup>th</sup> respondents.

**16.** The 3<sup>rd</sup> respondent also contended that after the awards were passed, the 4<sup>th</sup> respondent issued notices under Section 3E(1) of the National Highways Act to the claimants/persons interested and that some of the land holders received compensation submitting valid documents proving their title. It is also the contention of the 4<sup>th</sup> respondent that some of the land holders preferred arbitration before the District Collector, Guntur, who is the sole arbitrator in terms of the National Highways Act, requesting to enhance the compensation. It is the contention of the 3<sup>rd</sup> respondent that the petitioners should approach the 4<sup>th</sup> respondent to





receive respective amounts towards compensation duly submitting valid documents. It is also contended that 19 of the petitioners have approached the District Collector, Guntur for arbitration, which are pending. Thus, the 3<sup>rd</sup> respondent contended that the petitioners were fully aware of the proceedings before the 4<sup>th</sup> respondent and only to create unnecessary litigation, they filed this writ petition. It is also contended that Act 30 of 2013 is not applicable to the instances covered by the 1<sup>st</sup> award.

**17.** The 4<sup>th</sup> respondent in its counter affidavit while asserting that due procedure was followed in the entire proceedings in terms of the National Highways Act referring to disposal of the objections when raised in terms of Section 3C of some of the affected, survey carried out thereon and declaration notification issued by the Government in terms of Section 3E, contended that when enquiry was conducted on 31.03.2013 statements of land owners/ enjoyers or their representatives who attended were recorded and the 1<sup>st</sup> award was passed. While also referring to passing the 2<sup>nd</sup> award following due process of law and determination of the value of these lands, it is the contention of the 4<sup>th</sup> respondent that it is ready to pay and disburse the amount to those who approached it with valid documents, it is stated that on account of the huge nature of this project for formations of road, lands were handed over to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents on 02.08.2014.

**18.** Contending that Act 30 of 2013 is not applicable to the instances covered by the 1<sup>st</sup> award, which was made applicable to the instances covered by the 2<sup>nd</sup> award, it is the assertion of the 4<sup>th</sup> respondent that the land delivered to the 3<sup>rd</sup> respondent on 02.08.2014



was also handed over to the contractor by N.H.A.I-2nd respondent for formation of road. Thus disputing the entire claim of the petitioners including the possession and enjoyment of these lands by the petitioners, it is contended that in the circumstances question of dispossession of the petitioners therefrom did not arise.

**19.** On behalf of the petitioners denying the averments in the counter affidavits, separate reply affidavits are also filed rebutting such of those which require rebuttal, while asserting their claim. It is the further contention of the petitioners that their efforts to get at the records relating to both these awards either following the Right to Information Act or procedure in Writ Petitions was not fruitful and thus contended that the entire claim of the respondents is false, since no enquiry was conducted as such.

**20.** Sri C.V.R.Rudra Prasad, learned counsel for the petitioners, addressed arguments on their behalf and filed written submissions. Sri P.Veera Reddy, learned Senior counsel for Sri S.S.Verma, learned Standing counsel for N.H.A.I. for the respondents 2 and 3 and learned Additional Advocate General for the respondent no.4 Competent Authority-cum- Revenue Divisional Officer, Guntur addressed arguments.

**21.** Now, the following points arise for determination:

1. Whether the procedure under Sections 3E and 3G of the National Highways Act was followed in passing the 1<sup>st</sup> and 2<sup>nd</sup> awards by the 4<sup>th</sup> respondent?



2. Whether a direction for fresh notification in terms of Act 30 of 2013 or in terms of National Highways Act be issued to acquire the subject lands?
3. To what relief?

**POINT No.1:**

**22.** The petitioners are among those who are affected by the 1<sup>st</sup> and 2<sup>nd</sup> awards relating to acquisition of lands in Venkatapalem village, Tulluru Mandal, Guntur District.

**23.** The procedure followed for acquiring under the 1<sup>st</sup> award was in terms of the National Highways Act. Whereas in respect of the acquisition of land under the 2<sup>nd</sup> award, Act 30 of 2013 was applied ,since NHAI, New Delhi had decided that all the awards for compensation made on or after 01.01.2015 for acquisition of lands under the National Highways Act, 1956 will be as per the 1<sup>st</sup> schedule to the said Act. It is made clear in the 2<sup>nd</sup> award under the caption 'Determination of Market Value'. It is not a disputed fact either, in this writ petition.

**24.** A separate procedure is directed to acquire the lands under the National Highways Act. Predominantly and principally, Section 3A to Section 3H considered this process.

**25.** The scope of these provisions is succinctly stated in ***Dano Vaccines & Biological (P) Ltd., Hyderabad and another vs. Government of India and another***<sup>1</sup>(relied on for the respondents 2 and 3) ,in paras-13 and 14. They are extracted hereunder.

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



"13. The Act prescribes a complete code in itself, under Sections 3A to 3J, for acquisition of land for the building, maintenance, management and operation of highways. The process is initiated under Section 3A(1) of the Act upon the satisfaction of the Central Government that land is required in this regard and a consequential notification is issued in the Official Gazette declaring its intention to acquire such land. Section 3A(2) mandates a brief description of the acquired land in the said notification. Section 3C(1) provides for persons interested in the land notified under Section 3A(1) to object to such acquisition within 21 days from the date of publication of the notification. Section 3C(2) requires the competent authority, being the person or authority authorized and notified by the Central Government under Section 3(a) of the Act, to give the objector an opportunity of being heard either in person or through a legal practitioner and to either allow or disallow such objections, by order. Section 3D(1) provides that where no objections are received or are received and disposed of under Section 3C(2) and upon submission of a report in that regard, the Central Government shall declare by notification in the Official Gazette that the land should be acquired for the purposes of the highway. Section 3D(2) postulates that on the publication of the declaration under Section 3D(1), the land shall vest absolutely in the Central Government free from all encumbrances. Section 3G deals with determination of the amount payable as compensation. Sub-section (1) of Section 3G mandates that for land acquired under the Act, the amount determined by the order of the competent authority shall be paid. Section 3G(3) posits that before proceeding to determine the amount payable, the competent authority shall give a public notice published in two local newspapers, one of which will be in the vernacular language, inviting claims from all persons interested in the land. Section 3G(5) provides that if the amount determined by the competent authority is not acceptable to either of the parties, such party may seek determination through arbitration.

14. It is clear from the above statutory scheme that Section 3G of the Act only deals with determination of the compensation and prescribes the procedure to be followed by the competent authority....."

**26.** In *Union of India vs. Kushala Shetty and others*<sup>2</sup> (relied on for the respondents 2 and 3) there is also reference of these provisions particularly Section 3C and Section 3D in paras 20 and 21. They are as under:

*"20. The scheme of acquisition enshrined in the above reproduced provisions makes it clear that once the Central Government is satisfied that any land is required for the building, maintenance, management or operation of a national highway or part thereof, then, it shall declare its intention to acquire such land by issuing a notification in the official Gazette giving brief description of the land. The substance of the notification is also required to be published in two local newspapers of which one has to be in a vernacular language. Any person interested in the land can file objection within 21 days from the date of publication of the notification in the official Gazette. Such objection is required to*

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<sup>2</sup>. (2011) 12 Supreme Court Cases 69



*be made to the Competent Authority in writing. Thereafter, the Competent Authority is required to give the objector an opportunity of hearing either in person or through a legal practitioner. This exercise is to be followed by an order of the Competent Authority either allowing or rejecting the objections.*

*21. Where no objection is made to the Competent Authority in terms of Section 3C(1) or where the objections made by the interested persons have been disallowed, the Competent Authority is required to submit a report to the Central Government, which shall then issue a notification in the official Gazette that the land should be acquired for the purpose or purposes mentioned in Section 3A(1). On publication of declaration under Section 3D(1), the land vests absolutely in the Central Government free from all encumbrances....."*

**27.** As seen from the above provisions, pursuant to the notification upon expression of intention to acquire lands for public purpose by the Central Government for and in respect of the National Highway or a part thereof, a notification shall be issued under Section 3A(1) followed by a survey in terms of Section 3B for the purposes stated therein. Important is hearing and enquiry of the objections under Section 3C of this Act questioning the use of the land for the purpose or purposes stated in the notification referred to above where the competent authority, who is defined in terms of Section 3(a) of the National Highways Act, shall dispose of after giving an opportunity to the objectors. Thereafter, a declaration shall be issued under Section 3D when no objections were received or objections received were disallowed, for which purpose a notification shall be published in official gazette declaring that the land should be acquired for the purpose or purposes mentioned therein.

**28.** The impact of this declaration upon such publication is very significant and is ominous in its effect when in terms of Section 3D(2) the subject matter of acquisition viz., the land shall vest absolutely in the Central Government free from all encumbrances. This impact and effect



has enormous and profound application to the present situation in this case which shall be discussed infra.

**29.** Section 3E refers to procedure taking possession of these lands subject to determination of the compensation and deposit the same in terms of Section 3G and Section 3H respectively. Notice is contemplated to issue to the owner as well as any other person who is in possession of such land to surrender or deliver possession thereafter to the Competent Authority or any person duly authorised by it within 60 days of service of such notice. In case of refusal to deliver or surrender so stated, assistance of the Commissioner of Police in relating to the land situated in Metropolitan area or of the Collector of the District, when the land is situated in an area other than the metropolitan area. Thus, these two authorities in the given situation shall enforce surrender of the land to the competent authority or its delegate.

**30.** Thereupon, in terms of Section 3F in view of vesting of the land in Central Government in terms of Section 3D(2) of this Act, it shall be lawful for any person authorised by the Central Government in this behalf to enter and do other acts necessary upon the land to carry out the purpose for which it is acquired.

**31.** The procedure in determination of the compensation is the issue pertinent for the present purpose. It is desirable to extract section 3G of the National Highways Act hereunder:

***"3G.Determination of amount payable as compensation.—(1)***  
*Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.*

*(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid*



*an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.*

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

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

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

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

*(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—*

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

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

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

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

**32.** Though the pleadings in the affidavit filed in support of the writ petition set out as if there is infraction of the procedure in terms of preliminary notification under Section 3A(1) and the enquiry under Section 3C(2) of the National Highways Act, in the course of arguments as well as in the written arguments, Sri C.V.R.Rudra Prasad, learned counsel for the



petitioners, has made clear that the petitioners are not interested nor pressing any claim on the score that the procedure in terms of Section 3A(1) and 3C(2) has been offensive to their claims and that they are confining their present challenge only with reference to infraction of the procedure under Section 3G(3) and (4) of the National Highways Act. Therefore, only to this extent, this writ petition is being considered now.

**33.** This stand of the petitioners makes clear that there is no challenge on their part, of the procedure followed in passing both the awards in question up to the stage covered from Section 3A to Section 3D of the National Highways Act. They further did not question the effect of Section 3F nor any question arises with reference to application of Section 3H and Section 3-I of the National Highways Act.

**34.** A careful examination of Section 3G of the National Highways Act gives an impression that it is concerned to payment of compensation as determined by the order of the Competent Authority viz., the 4<sup>th</sup> respondent hereunder, following determination of the amount payable as compensation for the land acquired, as is specified in Section 3G(1) or towards certain easementary rights in terms of Section 3G(2) including right of enjoyment in the land.

**35.** Public notice in terms of Section 3G(3) was issued and was published in 'the Hindu' English daily and 'Andhrajyothi' Telugu daily (Vernacular). A copy of this notice is a part of the material papers filed along with the writ petition by the petitioners and it is a public notice published in the Hindu on 10.01.2013. The contents of this public notice are that all the persons interested in the lands proposed to be acquired were requested to appear in person or by an agent or by a legal





practitioner with original documents and xerox copies of Documents/Pattadar Pass Books/ Title Deeds or any other relevant documents pertaining to their lands and if they have any Structures with the approved plans, Tax Assessments, Tax Receipts before the Competent Authority Land Acquisition and Revenue Divisional Officer, Guntur in the office of the Tahsildar concerned on the dates noted against each village as mentioned below.

**36.** Distinct dates of enquiry are stated in this public notice in the tabulated form and this tabulated statement is extracted hereunder:

| Name of the District | Name of the Mandal | Name of the Village | Name of the Tahsildar for enquiry | Date & Time      |
|----------------------|--------------------|---------------------|-----------------------------------|------------------|
| Guntur               | Mangalagiri        | 1. Chinakakani      | Mangalagiri                       | 18.01.2013 11AM  |
|                      |                    | 2. Mangalagiri      |                                   | 22.01.2013 11 AM |
|                      |                    | 3. Navuluru         |                                   | 24.01.2013 11 AM |
|                      |                    | 4. Krishnayapalem   |                                   | 29.01.2013 11 AM |
|                      | Thullur            | 5. Mandadam         |                                   | 31.01.2013 11AM  |
|                      |                    | 6.Venkatapalem      |                                   | 31.01.2013 11 AM |

**37.** The petitioners, therefore, were expected to appear in the office of Tahsildar, Thullur on 31.01.2013 at 11.00 AM since with reference to Venkatapalem village this date was prescribed for their appearance for the purposes as stated above.

**38.** Issuance of this public notice is admitted and is not in question.

**39.** The specific case of the petitioners is that on the above prescribed date at about 11.00 A.M., they visited the office of the Land



Acquisition Officer to file their objections where they were informed that another date would be fixed and that personal notices would be issued upon fixing such date for hearing when they could file their objections in person. It is also the version of the petitioners that nothing of this kind happened.

**40.** The respondents 2 to 4 have specifically disputed this factual issue on the ground that no details of the same are furnished by the petitioners. In the sense, whom they met, who was the authority or the officer who informed them likewise and if there was any follow up action by them when there was no further response to such affirmation by the office of the Land Acquisition Officer. It is pertinent also to note that it is not the version of the petitioners that they visited the office of the Tahsildar, Thullur on 31.01.2013. It is their specific and categorical version that they visited the office of the Land Acquisition Officer to give their objections on that day. The office of the Land Acquisition Officer viz., the 4<sup>th</sup> respondent is at Guntur. Thus, neither there is clarity nor the version of the petitioners is that they visited the office of the Tahsildar, Thullur, where they were expected to present their claims or objections to the Competent Authority viz., the 4<sup>th</sup> respondent on 31.01.2013. Thus, on this factual premise itself, the ground sought to be made out by the petitioners did not stand. Added to it, as rightly contended for the respondents 2 and 3, want of particulars, details and want of follow-up measures if any taken by the petitioners when they did not receive any further notice as alleged, makes this whole claim a great suspect.

**41.** Further, issuance of personal notice to any of the affected including the individuals who lost their lands for the purpose of proposed



acquisition, is not at all contemplated in any of the provisions of Sections 3A to 3C and Section 3G of the National Highways Act. They specifically refer only to public notice to be issued and apparently personal notices are not at all intended, expected, contemplated or directed to be served on the affected persons.

**42.** When the procedure in terms of the National Highways Act require the Competent Authority to follow such course by taking out a public notice it cannot be expected to deviate. When a statute requires to follow a particular procedure, it shall be followed scrupulously without any deviation and it is a needless strain of the petitioners in this writ petition. Therefore, when Section 3G(3) of the National Highways Act directed only a public notice to be issued, the allegation of the petitioners that they were taken to confidence to issue personal notice for their appearance on a future date, is a far-fetched assumption.

**43.** Thus, for these reasons the grounds so set up by the petitioners to question the procedure followed and adopted by the 4<sup>th</sup> respondent in terms of Section 3G(3) of the National Highways Act should be rejected.

**44.** It is also pertinent to consider the nature of the action and the purpose of calling the persons interested in the land proposed to be acquired. The purpose and object of calling their attendance or appearance is not in terms, for the purpose of an enquiry. Section 3G(4) clearly states that their appearance either in person or by agent or by legal practitioner before the Competent Authority at the time and place is to state the nature of their respective interest in such land.



**45.** Though there is reference to Section 3C(2) in Section 3G(4), it is only to indicate appearance of the person interested either himself or through an agent or by a legal practitioner. In terms of Section 3C(2), while hearing the objections of any person interested, when an objection is made in writing to the Competent Authority setting out grounds, an opportunity should be given to him by the Competent Authority of being heard either in person or by a legal practitioner and the Competent Authority may after hearing of such objections, after making such further enquiry if any, if it is felt necessary by an order either allow or disallow the objections. Therefore, in terms of Section 3C(2) of the National Highways Act when there was an occasion to consider the objections relating to use of the land proposed for acquisition, a regular enquiry of the above nature is prescribed.

**46.** However, when Section 3G(4) is considered, it is only for a limited purpose to bring out the version of the person interested or the person who is affected by the proposed acquisition as to nature of his interest to such land. It did not contemplate any objection or statement to be filed in writing as is specifically appearing in section 3C(2) or hearing the party affected by the proposed acquisition or the person interested in the land nor it contemplated an order of the Competent Authority either to accept such version of those affected by the proposed acquisition or to reject.

**47.** Thus, there is a sea of difference in the scope and operation in Section 3C(2) and 3G(4) of the National Highways Act. Both of them operate in different set of circumstances or fields with the purpose and object being distinctly dissimilar. Therefore, as such in terms of Section



3G(4), it can be safely concluded that an enquiry of the nature prescribed in Section 3C(2) is not contemplated.

**48.** The next question is what shall be the basis for the Competent Authority to determine the amount payable as compensation. Section 3G(7) itself suggested the course to follow viz., in determining the compensation in terms of Section 3G(1), the Competent Authority shall take into consideration, the instances enumerated or rather enlisted therein. Thus, when these provisions presented a complete code as observed in *Dano Vaccines & Biological (P) Ltd., Hyderabad and another* (1 supra), the contention of the petitioners that there shall be an enquiry by the Competent Authority where they shall be given an opportunity to be heard and that there is serious infraction of these provisions affecting their statutory rights, is not acceptable.

**49.** Thus, not only basing on the fact situation but also considering the legal issue as to the procedure in this respect, the claim of the writ petitioners against the 1<sup>st</sup> award cannot stand.

**50.** Somewhat similar questions were considered in ***Nerajala Nageswara Rao and another v. Union of India and three others***<sup>3</sup> (relied on for the respondents 2 and 3) by one of the learned Judges of then High Court of Andhra Pradesh at Hyderabad and particularly attaching significance to public notice contemplated in these provisions without specific need for issuance of personal notice.

**51.** Another issue raised on behalf of the petitioners is that they are in effective possession and enjoyment of subject lands and that the

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<sup>3</sup>. (2017) 5 ALD 575=(2017)5 ALT 385



respondents 2 and 3 did not take over possession of these lands muchless on 02.08.2014. Their further contention is that they were not issued notices under Section 3E(1) of National Highways Act at any time nor they were dispossessed therefrom in tune with the procedure thereunder.

**52.** Section 3E of the National Highways Act refers to the power of the Central Government to take possession. It is desirable to extract the same hereunder for convenience.

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

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

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

*(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District,*

*and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.”*

**53.** In terms thereof, subject to declaration issued under Section 3D, upon vesting the land in terms of Section 3D(2) of the National Highways Act and determination of the amount of compensation under Section 3(G) of the said Act, on its deposit in terms of Section 3H(1) thereunder, the competent authority may by notice direct the person interested or the affected by the proposed acquisition, to surrender or deliver possession of the land to the competent authority or its duly authorised person. The terms of Section 3E are imperative in the sense



that the persons liable to surrender the land, are under an obligation to do so.

**54.** By that stage, the land sought to be acquired is already vested in the Central Government by virtue of the declaration under Section 3D of the Act and for which purpose a notification was already issued. Public notice referred to above whereby the petitioners were called upon to appear before the competent authority on 31.01.2013 clearly referred to vesting of the lands of the petitioners in the Central Government. It is a clear declaration indicative of the fact that the petitioners stood divested of their right, title and interest to the lands under acquisition. Mere formality of taking over possession of the lands remained, at the stage when Section 3E came into play. Specific claim of the 4<sup>th</sup> respondent is that the possession was taken over on 02.08.2014. It is denied in the reply affidavit by the petitioners on the ground that it is not the version of the 3<sup>rd</sup> respondent in its counter affidavit while asserting that they have been in actual physical and effective possession of these lands.

**55.** The petitioners did not produce any material in the nature of revenue records to establish this fact of their continuous possession and enjoyment of these lands though the declaration was published in the Gazette under Section 3D(2) on 22.11.2012, a copy of which is also a part of the material papers produced by the petitioners. A reference to it is made in the paper publication/public notice in 'the Hindu' on 10.01.2013. Thus, by that date of this declaration, the petitioners did not have any right or title or interest. Nor there is material produced by them to show that they have been in continuous possession and enjoyment of these lands since then. The contention of the petitioners is that the adjudication



is not adversarial in nature in this writ petition and that their version requires consideration, cannot be accepted.

**56.** Their further claim is that either with reference to statements recorded of the persons interested or users or enjoyers on 31.01.2012 or with reference to notices served in terms of Section 3E(1), no material is produced by the respondents 2 to 4 and efforts made by them under the Right to Information Act or calling upon learned Government Pleader serving a notice under Rule-15 of Writ Proceedings Rules did not yield result. On account of the failure of the respondents 2 to 4 to produce such record, it is the contention of the petitioners that their version of following due process of law and the procedure required under National Highways Act, should be held being incorrect and false.

**57.** There is fallacy in this contention. As rightly pointed out for the respondents 2 and 3 the entire strain of the petitioners is only to question the 1<sup>st</sup> award and they are silent so far as the effect of 2<sup>nd</sup> award is concerned. Whatever effort made by them under the Right to Information Act is subsequent to institution of the Writ Petition. Reasons are already stated that there is no material placed by the petitioners to make out follow up action they resorted to after their alleged denial of opportunity to present themselves before the 4<sup>th</sup> respondent competent authority did not materialise nor with reference to service of notices under Section 3E(i) of National Highways Act.

**58.** Rule-15 of Writ Proceeding Rules requires a request to be made in writing on behalf of the petitioners entitled to inspect the records, to the Government Pleader and in the event of refusal of such request, the party shall be entitled to apply for directions in this behalf.





**59.** A request in the nature of a letter served on the learned Government Pleader is filed on behalf of the petitioners along with the written submissions. It was not a course resorted to during the course of hearing in this writ petition.

**60.** Even otherwise, production of records in the circumstances of this case is quite unnecessary. The awards themselves are clear that the persons who are interested in these lands or the owners of the lands who attended gave statements and the 4<sup>th</sup> respondent authority recorded them particularly in the course of the 1<sup>st</sup> award proceedings. For instance, Sri Patibandla Venkateswara Rao, Sri Lanka Madhava Rao, Sri Parasaram Venkataramanacharyulu, Archaka on behalf of Sri Sitharamaswamy Vari Devasthanam, Venkatapalem Village, Sri Aluri Venkatramaiah, Smt. Vepuri Satyavathi, Sri Patibandla Venkateswarlu for Sri Patibandla Saideep, minor represented by mother Sri Lakshmi Durga, Sri Vaka Sarathbabu, Sri Vaka Sekhar Babu for Smt. Vaka Sivaparvathi, Sri Vaka Sridhar, Sri Manchikalapudi Sambasiva Rao, Smt. V.Siva Parvathi, Sri Manchikalapudi Venkata Krishna Rao, Sri Punumuchi Uday Sekhar, Prathipati Chennakesava Rao were among those who attended before the Competent Authority-cum-Land Acquisition Officer during 1<sup>st</sup> award proceedings among others.

**61.** Though the awards reflect that many among the land users, enjoyers or interested did not attend the enquiry, the attendance apparently was sizeable. These facts and circumstances also demonstrate that there was indeed recording of the statements of the individuals who appeared before the 4<sup>th</sup> respondent competent authority on 31.01.2013 and those instances were considered for compensation. This is another



instance as a striking feature to affect the claim of the petitioners that there was no such enquiry. It further goes to demonstrate that the competent authority 4<sup>th</sup> respondent followed the procedure established by law and in terms of the National Highways Act.

**62.** There is specific reference to disbursement of Rs.5,60,37,203/- in the counter affidavit of the 3<sup>rd</sup> respondent out of the award amount of Rs.13,84,28,826/- under the 1<sup>st</sup> award. A sizeable amount out of it was disbursed apparently in terms of section 3H of the National Highways Act. Thus, this disbursement is indicative of attendance of those interested or land users or enjoyers of the lands whose lands were acquired in this process, that came forward to receive the compensation so awarded. It further gives out that these attendees had notice in terms of Section 3E(1) of the Act.

**63.** When the material is so explicit and is supporting the stand of the respondents 2 to 4 that they did follow the procedure under the National Highways Act, the attempt of the petitioners to seek records either under the Right to Information Act or calling upon the learned Government Pleader to produce the records for the purpose of verification by this Court, is apparently unnecessary.

**64.** Thus, this ground of want of notice in terms of Section 3E(1) for surrender of lands to the petitioners as claimed by them has no basis. Continuous possession of these lands claimed by the petitioners is not substantiated nor established. In these circumstances, the contention of the respondents that these lands stood vested, were handed over to the respondents 2 and 3 on 02.08.2014 by the 4<sup>th</sup> respondent Competent Authority requires acceptance, which in turn according to them was



handed over to the contractor, who is building or working on this segment of this national highway.

**65.** Therefore, the principal contentions advanced on behalf of the petitioners stand rejected.

**66.** They also sought to attribute motives in a way to the 4<sup>th</sup> respondent of not recording the statements of the persons interested or the owners of the land. A mere statement in the affidavit is not sufficient for this purpose. As observed in *Kushala Shetty (2 supra)*, when such an attempt is made, material particulars are necessary to show that they were prevented from effectively exercising their right to file their objections. In fact, question of filing objections for the reasons stated supra at the stage when the compensation is being determined by the competent authority under Section 3G(4) cannot arise.

**67.** One of the contentions of the petitioners is that in view of serious infraction of the procedure, the awards have to be set aside and the respondents 2 to 4 shall be called upon to issue a fresh notification for acquiring these lands since the petitioners principally did not have any objection if their lands are required for public purpose for expansion of national highway. It is also their contention that they are not in any way preventing expansion of this national highway nor objecting to it. In such event, according to the contention of the petitioners, as observed in ***Competent Authority v. Barangore Jute Factory and others***<sup>4</sup>, if the 1<sup>st</sup> award cannot stand, it is desirable to direct the respondents to determine the compensation payable from a specific date and from such

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<sup>4</sup>. (2005) 13 Supreme Court Cases 477



stage on wards the proceedings can go on thereafter upon affording an opportunity to the petitioners to set forth their claims for determination of compensation. The pertinent observations in the above ruling of the Hon'ble Supreme Court in paras 14 and 15 are thus:

"14.....The construction of national highway on the acquired land has already been completed as informed to us during the course of hearing. No useful purpose will be served by quashing the impugned notification at this stage. We cannot be unmindful of the legal position that the acquiring authority can always issue a fresh notification for acquisition of the land in the event of the impugned notification being quashed. The consequence of this will only be that keeping in view the rising trend in prices of land, the amount of compensation payable to the land owners may be more. Therefore, the ultimate question will be about the quantum of compensation payable to the land owners. Quashing of the notification at this stage will give rise to several difficulties and practical problems. Balancing the rights of the petitioners as against the problems involved in quashing the impugned notification, we are of the view that a better course will be to compensate the land owners, that is, writ petitioners appropriately for what they have been deprived of. Interests of justice persuade us to adopt this course of action.

15. Normally, compensation is determined as per the market price of land on the date of issuance of the notification regarding acquisition of land. There are precedents by way of judgments of this Court where in similar situations instead of quashing the impugned notification, this Court shifted the date of the notification so that the land owners are adequately compensated. Reference may be made to:

(a)Ujjain Vikas Pradhikaran v. Rajkumar Johri and others [1992 (1)SCC 328]

(b) Gauri Shankar Gaur & Ors. v. State of UP & Ors. . [1994 (1) SCC 92]

(c) Haji Saeed Khan & Ors. v. State of UP & Ors. [2001 (9) SCC 513]

In that direction the next step is what should be the crucial date in the facts of the present case for determining the quantum of compensation. We feel that the relevant date in the present case ought to be the date when possession of the land was taken by the respondents from the writ petitioners. This date admittedly is 19th February, 2003. We, therefore, direct that compensation payable to the writ petitioners be determined as on 19th February, 2003, the date on which they were deprived of possession of their lands. We do not quash the impugned notification in order not to disturb what has already taken place by way of use of the acquired land for construction of the national highway. We direct that the compensation for the acquired land be determined as on 19th February, 2003 expeditiously and within ten weeks from today and the amount of compensation so determined, be paid to the writ petitioners after adjusting the amount already paid by way of compensation within eight weeks thereafter. The claim of interest on the amount of compensation so determined is to be decided in accordance with law by the appropriate authority. We express no opinion about other statutory rights, if any, available to the parties in this behalf and the parties will be free to exercise the same, if available. The compensation as determined by us under this order along with other benefits, which the respondents give to



parties whose lands are acquired under the Act should be given to the Writ Petitioners along with what has been directed by us in this judgment.”

**68.** It is also the submission on behalf of the petitioners that the respondents 2 and 3 have relied on this ruling, where observations of this nature are made which is suggesting that the respondents 2 and 3 intend to have such recourse in this matter. It is also the submission of the learned counsel for the petitioners that since the petitioners did not have any objection principally for acquisition of their land in the given scenario, this course can also be considered.

**69.** On behalf of the respondents 3 and 3 referring to the power of this Court under Article 226 of the Constitution of India to do justice among the parties *vis-a-vis* public interest reliance is placed on certain observations in ***Ramniklal N. Bhutta and another v. State of Maharashtra and others***<sup>5</sup>. In Para 10 of this ruling, the observations are thus:

*"10.....The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-a-vis the private interest while exercising the power under Article 226- indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lumpsum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings."*

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<sup>5</sup>. (1997) 1 Supreme Court Cases 134



**70.** The proposition canvassed for the parties needs to have substratum of facts. Particularly in the context of the contentions and submissions made on behalf of the petitioners, it is more relevant. The stand of the petitioners as seen from the pleadings set out in the affidavit filed in support of this petition is clear and categorical and is very assertive. They did not want any enhancement of compensation nor did they challenge the award in that regard. It is desirable to extract that part of relevant averments in para-10 of the affidavit of the 1<sup>st</sup> petitioner hereunder (Para-10 is very lengthy covering pages 13,14,15 and 16 of the affidavit of the 1<sup>st</sup> petitioner):

*"10..... We are not seeking any enhancement of compensation and challenge the award in that regard and as such, we are not approaching any authority constituted under the NH Act or the RFCTLARR Act, 2013....."*

**71.** When the petitioners affirmed positively in such a fashion, the course now suggested as above is inappropriate. When the petitioners did not intend to have such relief, the Court cannot force upon them likewise. Desires and intentions of the petitioners should be respected.

**72.** Added to it, the specific contention of the respondents 2 to 4, particularly respondent no.4 in the counter affidavit is that the petitioner nos.1,2,3,4,7,8,10,11,12,13,15,16,19,21,23,24,31 and 34 approached the Arbitrator & District Collector, Guntur. It is stoutly denied by the petitioners in the reply affidavit. The contention of the petitioners is also that they made attempts to get at necessary record relating to this arbitral proceedings before District Collector,Guntur, in vain. When the above statements made on behalf of the petitioners through the 1<sup>st</sup> petitioner that they did not intend to approach the authorities nor seeking any



enhancement of compensation, it is another reason, for the course so suggested not to resort to.

**73.** Added to it, when the initial notification in terms of Section 3A(1) was issued on 25.11.2013 and the entire process in terms of Sections 3A to 3H of the National Highways Act stood completed including passing both the awards on 27.12.2013 and 16.11.2015 respectively, approaching this Court by means of this writ petition on 21.11.2019 smacks of delay. It remained unexplained by the petitioners. Apparently, the petitioners filed this writ petition taking undue advantage of their failure to appear before the 4<sup>th</sup> respondent competent authority on the appointed date in terms of public notice dated 10.01.2013. Creating a contrived situation as if there is infraction of procedure, they could prevent the ongoing project of national highway for a long time. Their approach by means of this writ petition is highly belated nor is clean. The whole attempt appeared to make out a mountain out of molehill.

**74.** Therefore, on the material the 1<sup>st</sup> and 2<sup>nd</sup> award of the 4<sup>th</sup> respondent competent authority should be upheld and that there was neither procedural infraction in passing them nor any impropriety. Thus, this point is answered and against the petitioners.

**POINT No.2:**

**75.** In view of the reasons stated while discussing on point no.1 since awards are confirmed, it is not necessary that there should be a re-look into the matter upon taking out fresh notification for the purpose of acquisition of these lands and such question did not arise. Thus, this point is held against the petitioners and in favour of the respondents.



**POINT No.3:**

**76.** There is no merit in this writ petition. In view of the findings on points 1 and 2, this Writ Petition has to be dismissed.

**77.** In the result, this writ petition is dismissed. Interim direction dated 25.11.2019 is vacated. Since the petitioners are all oustees from the lands and are evicted by the acquisition process, it is not desirable to mulct them with any costs.

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

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**JUSTICE M.VENKATA RAMANA**

**Dt: 14.06.2021**

Note: Registry is directed to upload the order this day itself. L.R. copy to be marked.

B/o  
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**HON'BLE SRI JUSTICE M.VENKATA RAMANA**

**WRIT PETITION No.18829 of 2019**

**Dt: 14.06.2021**

Note: Registry is directed to upload the order  
this day itself. L.R. copy marked.

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2021:APHC:10456  
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W.P.No.18829 of 2019