

(2026) 08 OHC CK 1546
In the Orissa High Court, Cuttack Bench
Case No : LAA No.66 of 2022

Angul Sukinda Railway Ltd.	Vs	APPELLANT
Somanath Naik & Ors.		RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Land Acquisition Act, 1894 — Section 54, U/s.18, U/s.4(1), 18, 4(1)
Companies Act, 1956
Constitution of India — Article 226, 256(1)

Citation : (2026) 08 OHC CK 1546

Hon'ble Judges : Mruganka Sekhar Sahoo, J

Bench : Single Bench

Advocate : Mr. Susanta Kumar Dash, Sr. Advocate along with Mr. Prabin Das, Ms. Suman Modi along with Mr. S. Pradhan, Mr. D.N. Lenka, Mr. P.K. Parhi, Sr. Advocate (DSGI) along with Mr. D. Gochhayat

Final Decision : Allowed

Judgement

Mruganka Sekhar Sahoo, J.

1. In the appeal under Section 54 of the Land Acquisition Act, 1894, by the appellant, a Company registered under the Companies Act, 1956, the challenge is to the judgment dated 28.06.2022 passed by the learned Civil Judge(Sr. Division), Angul in L.A. Misc. Case No.07 of 2022. L.A. Misc. Case arose out of a reference U/s.18 of the Land Acquisition Act made by the Special L.A.O., Angul-Duburi-Sukinda Road, New Broad Gauge Rail Link Project, Dhenkanal. The acquisition was pursuant to a notification dated 28.05.2011 U/s.4(1) of the Land Acquisition Act, 1894.

2. The Land Acquisition Officer determined market price of land @ Rs.6,10,000/- (Rupees Six Lakh Ten Thousand) per acre, the amount determined to be payable as compensation being Rs.6,22,367/- (Rupees Six Lakh Twenty-two Thousand and Three Hundred Sixty Seven) that includes the market price of lands and other statutory benefits provided under the Act.

The learned referral Court determined the market price at an enhanced rate: @ Rs.16,50,000/-(Rupees Sixteen Lakh Fifty Thousand) per acre, directed the Spl. LAO to recalculate and determine the market price of the land at enhanced rate and disburse the differential amount to the present respondents-petitioners.

3. The coordinate Bench by order dated 14.12.2022 has allowed the I.A. No.204 of 2022, and granted leave for appeal to be filed by the project proponent appellant Angul Sukinda Railway Limited who was not a party before the learned referral court.

4. Mr. S.K. Dash, learned Sr. Advocate assisted by Sri P. Das, Advocate for the appellant, Mr. S. Pradhan, learned counsel for the respondents no.1 & 2, Mr. P.K. Parhi, learned Sr. Advocate and DSGI along with Mr. D. Gochayat, learned CGC of the Union of India/Ministry of Railways for respondent no.4 and Mr. D. Lenka, learned Additional Government Advocate for the respondent no.2 were heard at some length.

5. In considered view of this Court, the land acquisition appeal was presented before this Court on 16.11.2022. Prior thereto the reference was answered by judgment dated 28.06.2022 by the learned Civil Judge (Sr. Division), Kamakhyangar. In the reference, the project proponent Angul Sukinda Railways Limited was not made parties. It is further submitted on behalf of the petitioner that the matter is kept pending for the last 4 years without proceeding any further.

6. This Court finds that in the present application the judgment of the referral Court as annexed to the land acquisition appeal goes to show that the land loser has made statutory authority under Land Acquisition Act, the Special Land Acquisition Officer and the East Coast Railway as parties, who would neither pay the compensation nor the enhanced compensation, if it is allowed. Rather the Special Land Acquisition Officer (authority) had himself referred the matter under Section 18 of the Land Acquisition Act exercising his statutory power.

7. It is submitted by the learned DSGI that Railways and the project proponent both are to be made parties and should be heard by the referral court before any direction is issued to pay the enhanced compensation.

In considered opinion of this Court the submissions of the learned DSGI is to be accepted in view of the judgment of the Hon'ble Apex Court in **U.P. Awas Evam Vikash Parishad v. Gyan Devi** as well as decision of this Court in W.P.(C) No.13949 of 2024 (*Pitambar Sahoo v. Angul-Sukinda Railway Limited*) by order dated 18.06.2024 passed by the Division Bench.

8. The learned Sr. Counsel for the appellant refers to the order in the writ petition W.P.(C) No.6498 of 2026 (*Angul Sukinda Railway Limited, Khordha vs. State of Odisha and others*), which has been disposed of by the Division Bench by order dated 20.04.2026.

It is submitted by the learned counsel for the appellant that as writ petition

against the order of the Referral Court is also maintainable, the Division Benches of this Court have entertained the writ application and disposed of, remanding the matter to the learned Court that had considered the reference, with further direction to re-hear the reference by allowing the project proponent to be impleaded and heard.

9. The paragraphs-4, 5, 6, 7, 8, 9, 10, 11 and 12 of order dated 20.04.2026 passed in W.P.(C) No.6498 of 2026 are relied upon by the learned Senior Counsel for the appellants and are reproduced herein:

"4. It is the submission of the learned counsel for the Petitioner that this case may be disposed of in the light of order dated 18th June, 2024 passed in W.P.(C) No.13949 of 2024 (Angul Sukinda Railway Ltd., Bhubaneswar vs. State of Odisha and others), relevant paragraphs of which are quoted hereunder;

"6. A statutory appeal under Section 54 of the Act lies against an award under Section 18 of the Act, but at the same time, a writ petition is maintainable under Article 226 of the Constitution against determination of the amount of compensation by the Land Acquisition Collector or by the Reference Court as held in U.P. Awas Evam Vikas Parishad vs. Gyan Devi (Dead) by L.Rs. and Ors., AIR 1995 SC 725 and in Gregory Patrao and others vs. Mangalore Refinery and Petrochemicals Limited and others; (2022) 10 SCC 461. In the instant case, the petitioner is entitled to an opportunity of hearing for just adjudication of the reference under Section 18 of the Act.

7. In that view of the matter without delving into technicalities with regard to maintainability of the writ petition, we set aside the impugned award under Annexure-1 and remit the matter to the learned Senior Civil Judge, Kamakhyanagar for de novo adjudication of the L.A. Misc. Case No.184 of 2021 giving an opportunity of hearing to the parties including the petitioner. It is further directed that the learned Senior Civil Judge, Kamakhyanagar shall do well to adjudicate the reference afresh as expeditiously as possible, preferably within a period of six months from the date of receipt of certified copy of the order.

8. Parties are directed to cooperate for early disposal of the reference.

9. With the aforesaid observation and direction, Writ Petition is disposed of."

*5. He further submits that although the judgment passed under Section 18 of the Act is appealable under Section 54 of the Act, but a writ petition is maintainable as held in the aforesaid order relying upon the decision in the cases of **U.P. Awas Evam Vikas Parishad vs. Gyan Devi (Dead) By L.Rs. And Ors.: AIR 1995 SC 725 and Gregory Patrao and others vs. Mangalore Refinery and Petrochemicals Limited and others; (2022) 10 SCC 461**. It is his submission that no appeal against the order under Section 54 of the Act has been filed against the Judgment dated 28th March, 2025 (Annexure-2) which is impugned herein.*

6. He, therefore, prays for setting aside the impugned judgment under Annexure-2 and to remit the matter to the learned Civil Judge (Senior Division), Jajpur Road, Jajpur for fresh adjudication of the reference under Section 18 of the Act, i.e. L.A.R. Case No.16 of 2016 providing opportunity of hearing to the parties concerned including the Petitioner.

7. Mr. Biswal, learned Additional Standing Counsel submits that the issue involved in this case has already been answered in W.P.(C) No.13949 of 2024 disposed of on 18th June, 2024 (supra). He, therefore, submits that this Writ Petition may be disposed of accordingly.

8. This Court, on earlier occasion, directed learned State Counsel to take instruction with regard to applicability of the ratio in the case of **Angul Sukinda Railway Ltd., Bhubaneswar** to this case. On verification, Mr. Biswal, learned Additional Standing Counsel submits that the ratio in the case of **Angul Sukinda Railway Ltd., Bhubaneswar** (supra) is squarely applicable to the instant case.

9. In that view of the matter, this Court without delving further into the contentions raised by learned counsel for the Parties on merit of Judgment under Annexure-2, disposes of the writ petition in the light of the decision in the case of **Angul Sukinda Railway Ltd., Bhubaneswar** (supra).

10. As the Petitioner is the beneficiary of land acquisition and a person interested and was not provided with any opportunity of hearing during adjudication of the reference under Section 18 of the Act, the impugned judgment under Annexure-2 is set aside and the matter is remitted to learned Civil Judge, (Senior Division), Jajpur Road, Jajpur to adjudicate L.A.R. Case No.16 of 2016 (under Section 18 of the Act) afresh as expeditiously as possible, preferably within a period of six months from the date of service of notice on the parties, providing opportunity of hearing to the parties concerned, including the Petitioner.

11. Learned Civil Judge (Senior Division), Jajpur Road, Jajpur shall act upon production of certified copy of this order.

12. Since this writ petition is disposed of without issuing any notice to the land losers (Opposite Party No.7 and 8), they are at liberty to move this Court for variation of this order if she feels aggrieved.

Urgent certified copy of this order be granted on proper application."

10. The learned counsel for the respondent no.1 submits that the decision of the Constitution Bench in **U.P. Awas Evam Vikas Parishad vs. Gyan Devi (Dead) By L.Rs. And Ors.: AIR 1995 SC 725** is distinguishable.

11. In considered view of this Court the submissions of Ms. Modi, learned counsel for the respondents has already been considered and answered by this Bench when similar contentions were raised in LAA No.33 of 2014 (**Ramesh Chandra Patra and another vs. Special L.A.O., Angul-Duburi-Sukinda Road, New Broad Gauge Rail Link Project**), decided by judgment dated 05.05.2025.

The paragraphs in the said judgment which have dealt with and answered similar contentions, i.e.18 to 20 and 35 to 40 are reproduced herein :

"18. Learned counsel for the appellants submits that though not made party the referral court issued notice to the East Coast Railway. On being asked by which order the said notice was issued by the learned Civil Judge (Senior Division), Kamakshyanagar in L.A. Misc. Case No.126 of 2013, the learned counsel submits that the Special LAO while referring the matter under section 18 of the Land Acquisition Act, by letter intimated the East Coast Railway.

Such submission is also contrary to the materials on record i.e. the record of the lower Court (LCR). The judgment as well as the reference on the face of it does not indicate that the requisitioning authority-East Coast Railway was ever made a party much less noticed by the learned Civil Judge (Senior Division), Kamakshyanagar as is being suggested by the learned counsel for the Appellants.

19. Assuming that the opposite party in the L.A. case, Spl. LAO issued letter to another

authority which is not made party, proposition that such letter has to be treated as notice issued by the court is beyond scope of law. When the Special LAO himself was the opposite party in the adjudication he could not have issued letter to another authority to be treated as notice to appear before the Court. The LAO was not competent in his official capacity to place before the referral Court the version of the Railways or the Company.

20. Relying on the decisions rendered by the Supreme Court in **Satish Kumar Gupta and others v. State of Haryana and others: (2017) 4 SCC 760** and **Gregory Patrao v. Mangalore Refinery and Petrochemicals Ltd.: (2022) 10 SCC 461**, it is submitted by the learned counsel, Mr. Panda for the appellants that the intending intervenors are neither necessary nor proper parties to be impleaded before the LA referral court and they have no locus standi in view of the notification dated 07.07.2010 issued under S.4(1) of the LA Act, annexed to the objection marked as Annexure-1/1. It is further submitted that Ministry of Railways is not a necessary party.

Such submission of the learned counsel is on the face of the fact that the requisitioning authority is Union of India through Ministry of Railways as per the orders of the Excellency the President of India under Article 256(1) of the Constitution of India.

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35. The intervenors rely on the decision rendered by a coordinate Bench in **Pitambar Sahoo v. Angul-Sukinda Railway Limited : 2016 (2) ILR Cut. 212, 2016(II) OLR 27**, wherein the coordinate Bench has dealt with the memorandum of understanding/concession agreement in extenso to hold that by the agreement entered between the East coast Railway and the intervenors was liable to indemnify all actions, suits, claims, demands and proceedings.

It was held that the one who is under obligation or liable to indemnify against all actions, suits, claims, demands and proceedings has a right to be heard in it which has become more expedient when neither Ministry of Railway, Govt. of India nor the East coast Railways have been impleaded as a party to the reference. The decision of the coordinate Bench has attained finality as it has not been challenged/altered by any subsequent decision.

Therefore, this Court is not required to go again into the said issues as in the elaborate order the coordinate Bench considered the MoU/concession agreement entered into between the Railways and the petitioner-Company the scope and interpretation of various clauses of the MoU/concession agreement. The fact remains that **Pitambar Sahoo** (supra) has dealt with the self-same land acquisition process i.e. the notification for acquisition of land U/s.4(1) of the LA. Act, 1894 vide Notification No.26720 dated 07.07.2010 for acquisition of land of the Angul-Duburi-Sukinda New B.G. Rail Link Project for East Coast Railways.

36. The reliance of the appellants on **Gregory Patrao v. Mangalore Refinery and Petrochemicals Ltd.: (2022) 10 SCC 461** is of no avail. In **Gregory Patrao** (supra) it was held that the allottee of land by the beneficiary for whom the land was acquired cannot be a person interested. In the case at hand Eastcoast Railway and/or the Angul-Sukinda Railway Company are themselves the beneficiaries/project proponents. They are not subsequent allottees of the land that was acquired.

37. In the present case East coast Railway and/or the Angul-Sukinda Railway Company are the project proponents/beneficiary. To oppose the participation of the Company in the proceeding before the referral Court the only argument made by the appellant is that Angul-Sukinda Railway Company entered into a memorandum of understanding with the East coast Railway regarding execution of the project. It is not the case of the appellants

that Angul-Sukinda Railway Company and/or East Coast Railway are post-acquisition allottee of land to apply the principle of **Gregory Patrao** (supra).

38. In considered view of this Court the argument of the appellants to apply **Gregory Patrao** (supra) or **Satish Kumar Gupta and others v. State of Haryana and others: (2017) 4 SCC 760** fails in view of the fact that East coast Railway and/or Angul-Sukinda Railway Company are not post acquisition allottees of land. They are the immediate beneficiaries of land acquisition, they are the project proponents/requisitioning authority.

Significantly, it has also to be noted that the learned counsel for the appellants and the learned AGA for the Special LAO did not point out how by impleading the project proponent East Coast Railway and/or the S.A. Rly Company (ASLR Ltd) the appellants-land losers or the Special Land Acquisition Officer would have been prejudiced/will be prejudiced in any manner in the proceeding before the Court below.

The stand taken by the State representing the Special LAO opposing participation by the Railway/S.A. Rly. Company defies logic, as a Special LAO can not have any interest apart from disbursing the amount of compensation determined or enhanced to be paid as compensation.

39. It has to be noticed that **U.P. Awas Evam Vikash Parishad** (supra) is a constitution Bench decision rendered by five Hon'ble Judges and **Neyvely Lignite Corporation Ltd.** (supra) rendered by three Hon'ble Judges, still hold the field. The decisions in **Gregory Patrao** and **Satish Kumar Gupta** (supra) rendered by Bench of two Hon'ble Judges did not differ from earlier decisions of the constitution Bench or three Judge Bench and only held that earlier decisions are not applicable to post acquisition allottees.

It has also to be noticed that the coordinate Bench in **Pitambar Sahoo** (supra) has applied the principles laid in **U.P. Awas Evam Vikash Parishad** (supra), **Neyvely Lignite Corporation Ltd.** (supra) and also considered **Gregory Patrao** (supra) and **Satish Kumar Gupta** (supra).

Learned AGA though argued regarding applicability of **Gregory Patrao** (supra) but it was also not disputed that East coast Railway being the beneficiary/project proponent/requisitioning authority was not made a party before the referral court under section 18 of the L.A. Act.

40. As a result of the above discussions the award dated 04.07.2014 in L.A. Misc. Case No.126 of 2013 decided by the learned Civil Judge (Senior Division), Kamakhyanagar is set aside and quashed. The L.A. Misc. Case No. 126 of 2013 is restored to file for adjudication afresh. The parties in the present case i.e. the appellants and the intervenors shall appear before the learned court of jurisdiction i.e. the learned Civil Judge (Senior Division), Kamakhyanagar or any other court that could be assigned the matter. The learned Court shall act upon production of the website copy of this order.

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12. Noticeably, the learned referral Court though has determined the market price at an enhanced rate but it has not referred to any version of the entity that would pay such money i.e. the project proponent/requisitioning authority. No such issue has been framed as the learned Court proceeded to adjudicate the matter there being no opposite party to respond to the plea of enhancement. Such judicial approach is clearly against basic tenets of principle of *audi alteram partem*. Such approach of the learned Court has ended in impacting the legality of the adjudication.

13. Having heard learned counsel for the appearing parties, considering the facts of the case and applying the law laid down in the judgments of the Hon'ble Apex Court, judgment of this Court, the judgment dated 28.06.2022 passed in LA Misc. Case No.07 of 2022 rendered by the learned Civil Judge (Sr. Division), Angul is set aside and quashed.

14. The LA Misc. Case No.07 of 2022 is directed to be restored to file for adjudication afresh. The parties to the appeal i.e. the appellant, respondent no.1, the State through Special L.A.O. as well as the Ministry of Railways/East Coast Railways shall appear before the court of jurisdiction i.e. court of the learned Civil Judge(Sr. Division), Angul or any learned court that may be/have been assigned the matter. Learned court shall act upon production of the certified copy of this order.

The present appellant shall file application for impletion as necessary party before the learned referral court in the proceeding which stands restored. Learned court shall allow the said application to enable the intervenor to be arrayed as opposite party.

15. As the matter is remitted to the learned referral court to be adjudicated afresh, the learned court shall afford opportunity to the intervenors, project proponent to file their written statement regarding enhancement of the award and in accordance with law shall allow them to adduce evidence and produce witnesses in support of their contentions.

16. The respondents no.1 & 2 shall also appear before the learned Civil Judge (Sr. Division). If the respondents no.1 & 2 would not appear the Court shall issue notice giving them reasonable time to appear again as the matter is remanded.

17. It is directed the parties shall appear before the learned court in seisin of the matter/learned Senior Civil Judge, Angul on 28.08.2026. The parties shall co-operate in the proceeding, shall not seek unnecessary adjournment and the reference shall be disposed of as expeditiously as possible being of the year 2022. Copy of this Judgment shall be forwarded by the Registry to the learned Civil Judge (Sr. Division), Angul.

18. The LAA is allowed and disposed of with the aforesaid directions.

FOOTNOTES

1. *AIR 1995 SC 724: (1995) 2 SCC 326*