
(2022) 01 TEL CK 0039
In the Telangana High Court
Case No : Writ Appeal No. 285 Of 2021

N. Nishanth Reddy And Another	Vs	APPELLANT
State Of Telangana And 6 Others		RESPONDENT

Date of Decision : 31-01-2022

Acts Referred:

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 10, 10A, 11, 11(1), 12, 15, 15(3)

Citation : (2022) 01 TEL CK 0039

Hon'ble Judges : Satish Chandra Sharma, CJ; Abhinand Kumar Shavili, J

Bench : Division Bench

Advocate : Vedula Chitralkha

Final Decision : Dismissed

Judgement

1. The appellants before this Court have filed the present writ appeal being aggrieved by an order dated 29.04.2021 passed in W.P.No.2935 of 2021,

by which the writ petition preferred by the appellants/writ petitioners challenging the land acquisition proceedings under the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the Land Acquisition Act, 2013) has been dismissed.

2. The undisputed facts of the case reveal that the appellant No.1/petitioner No.1 is the owner of land to an extent of Acs.0.20 guntas in survey

No.228/AA and the appellant No.2/petitioner No.2 is the owner of the land to an extent of Acs.0.20 guntas in survey No.228/AA/1/6 situated at

Kardanoor Village, Patancheru Mandal, Medak District. The writ petition was filed being aggrieved by the land acquisition proceedings for acquisition

of land admeasuring Acs.8.05 guntas in various survey numbers of Kardanoor

Village, land admeasuring Acs.12.05 guntas in Isnapur Village as well as land admeasuring Acs.20.06 guntas in Muttangi Village. A Notification was issued on 13.11.2019 under Section 11(1) of the Land Acquisition Act, 2013 and both the appellants/writ petitioners are not the owners of the entire land, as stated in the writ petition they are the owners of small extents of lands, which is the subject matter of the land acquisition proceedings. The respondents have initiated acquisition proceedings in order to construct a Four Lane Carriageway from IDA Pashamailaram Industrial Park to Outer Ring Road from Km 0/0 to 4/5 in Sangareddy District keeping in view the traffic jams and to ease the industrial traffic as traffic jams are occurring at regular intervals enroute Isnapur to Pashamailaram Industrial area. The Government of Telangana, vide G.O.Rt.No.05, dated 04.01.2018 has accorded administrative sanction for the work of Construction of Four Lane Carriageway from IDA Pashamailaram Industrial Park to Outer Ring Road. After careful examination of all the available alternatives and keeping in view the study carried by technical experts as well as keeping in view the recommendations of the Engineer-In-Chief (R&B), State Roads & CRN, Hyderabad, the alignment was made by the shortest route to ensure that the alignment is in a straight line. The alignment was approved and thereafter, requisition proposal was forwarded to the District Collector, Sangareddy to initiate the land acquisition process to acquire the land totalling to an extent of Acs.40.16 guntas in Medak District.

3. The State Government after careful examination of the matter and taking into account all relevant facts has issued G.O.Ms.No.18, dated 13.08.2019 exempting the Project from the provisions of Chapter II and III of the Land Acquisition Act, 2013. Accordingly, as per the Survey Report, sub-division records and exempted G.O., the Notification in Form C (under Section 11 of the Land Acquisition Act, 2013, where 10A exemption is given) was issued by the Collector, Sangareddy vide File No.62/2419/2018, dated 18.11.2019 for the land under acquisition to an extent of Acs.40.16 guntas in Kardanoor, Isnapur and Muttangi Villages of Patancheru Mandal, Medak District for construction of Four Lane Road. The undisputed facts make it very clear, as reflected from the record, that the appellant No.1/petitioner No.1 is the pattadar of the land admeasuring Acs.0.20 guntas in survey No.228/AA and the appellant No.2/petitioner No.2 is the pattadar of

the land admeasuring Acs.0.20 guntas in survey No.228/AA/1/16 situated at Kardanoor Village, Patancheru Mandal, Medak District. Out of the total land of the appellant No.1/petitioner No.1, land to an extent of Acs.0.15½ guntas and in respect of the appellant No.2/petitioner No.2, land to an extent of Acs.0.15½ guntas only fall under the Notification. The Notification dated 13.11.2019 was published in newspapers on 24.11.2019 and the appellants/petitioners submitted their objections on 24.01.2020, i.e., on 62nd day of publication of notice to the respondent No.6/Executive Engineer, Roads and Buildings (Retail Division), Hyderabad and not to the District Collector. The appellants/ petitioners thereafter submitted their objections to the District Collector on 30.01.2020. The objections submitted by the appellants/petitioners were considered and well reasoned order was passed on 19.06.2020 taking into account all the objections raised by the appellants/ petitioners. The appellants/petitioners came up with a case before the learned Single Judge that the provisions of Land Acquisition Act, 2013 have not been complied with, no survey as mandated under Section 12 of the Land Acquisition Act, 2013 was conducted, their objections have been rejected by passing a non-speaking order under Section 15(3) of the Land Acquisition Act, 2013 and without assigning any reason the exemption has been granted by the State Government in the matter under Section 10A of the Land Acquisition Act, 2013. The learned Single Judge after taking into account the grounds raised by the appellants/petitioners and the reply filed by the respondents has dismissed the writ petition and being aggrieved by the aforesaid order, the present writ appeal has been filed.

4. This Court has heard the learned counsel for the parties at length and perused the record. The matter is being disposed of with the consent of the parties at the motion hearing stage itself.

5. The facts of the case reveal that a Notification was issued under the provisions of the Land Acquisition Act, 2013 in respect of acquisition of lands

admeasuring Acs.8.05 guntas in various survey numbers of Kardanoor Village, land admeasuring Acs.12.05 guntas in Isnapur Village as well as land

admeasuring Acs.20.06 guntas in Muttangi Village, Medak District. The Government of Telangana, vide G.O.Rt.No.05, dated 04.01.2018 has

accorded administrative sanction for the work of Construction of Four Lane Carriageway from IDA Pashamailaram Industrial Park to Outer Ring

Road from Km 0/0 to 4/5 in Sangareddy District to ease the industrial traffic as traffic jams are occurring at regular intervals enroute Isnapur to

Pashamailaram Industrial area. Meaning thereby, after careful deliberations, after carrying out technical study and after obtaining various reports from

various authorities, alignment was made and steps were taken for laying the road by taking the shortest distance. A G.O., was also issued under

Section 11 of the Land Acquisition Act, 2013 on 13.08.2019 and thereafter, a Notification under Section 11(1) of the Land Acquisition Act, 2013 for

acquisition of lands totalling the land measuring Acs.40.16 guntas was issued.

6. The most important aspect of the case is that the appellant No.1/petitioner No.1 is the owner of Acs.0.20 guntas only and the appellant

No.2/petitioner No.2 is the owner of Acs.0.20 guntas only, out of which only an extent of Acs.0.15½ guntas each is the subject matter of land

acquisition notification. The appellants/petitioners submitted their objections to the respondent No.6/Executive Engineer and their objections were

rejected by a detailed speaking order, which is on record. The relevant portion of the aforesaid order is reproduced as under:-

Further also informed that the proposed road is a construction of new road which is the shortest route between the IDA Pashamailaram to Outer

Ring Road involving minimum land acquisition and alignment is almost in a straight line and their office has not made any correspondence with regards

to 100 feet road as raised by the petitioner.

The alignment is approved by the Government of Telangana after careful examination of all the available alternatives duly considering all technical

aspects, as studied by the Consultancy and recommended by the Engineer-in-Chief (R&B) State Roads & CRN, Hyderabad. The above proposed

alignment is the shortest route between the IDA Pashamailaram to Outer Ring Road involving minimum land acquisition and alignment is almost in a

straight line and if the alignment as proposed in the representation made is considered, the length of the project will be increased and induces certain

curves which are not feasible from technical and financial point of view. It is not suitable for heavy vehicles which travel from IDA Pashamailaram to

Outer Ring Road, since the road is intended for movement of heavy vehicles for Pashamailaram IDA. There are no R&B guidelines to maintain a

service road adjacent to the High Tension Roads of 60 feet. The proposed road is

a new formation of road as per the request made by the TSIIC. As the HT lines are not in a straight line and since the proposed road is intended for movement of heavy loads to Pashamailaram IDA, the alignment in a straight line is considered. As the proposed road is intended for movement of heavy traffic from Pashamailaram industrial area, an exclusive road is required and the left over 60 feet road in said colonies is not feasible as it will be difficult for movement to the colony residents in future. As such, a separate road has to be formed for the above intended purpose.

Further informed that in Section 10 of Chapter III of RFCTLA & RR Act, 2013, it is mentioned that "Provided that the provisions of this section

shall not apply in the case of projects that are linear in nature such as those relating to railways, highways, major district roads, irrigation canals, power

lines and the like". Hence, this project is of a linear nature. The appropriate Government may, in the public interest by notification, can exempt the

infrastructure projects among the others as per Section 10(A) of Chapter IIIA of RFCTLA & RR Act, 2013.

Accordingly, the Government after careful examination of the matter and after taking into consideration of the facts vide G.O.Ms.No.18, Transport,

Roads & Buildings (R.II) Department, dated 13.08.2019 have exempted the project, i.e., "Construction of Four lane carriage way from IDA

Pashamailaram Industrial Park to Outer Ring (i.e., at Patancheru "Shankarpally road junction) from 0/0 to 4/5 in Sangareddy District", from the

provisions of Chapter II and III of the RFCTLA & RR Act, 2013 and the same was gazetted vide No.182 in Telangana State Gazette Part-I Extra

Ordinary on 09.09.2019 prior to the issuance of notification (24.11.2019).

The objection petition filed is considered. The objections raised therein have been examined and rejected in view of the above and informed

accordingly.

7. The statutory provisions governing as contained under Sections 10A, 11 and 15 of the Land Acquisition Act, 2013 are reproduced as under:-

"10A. Power of State Government to exempt certain projects:- The State Government may, in the public interest, by notification in the

Official Gazette, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:-

(a) Such projects vital to national security or defence of India and every part

thereof, including preparation for defence or defence production;

(b) Infrastructure including electrification and irrigation projects;

(c) Affordable housing and housing for the poor people;

(d) Industrial corridors set up by the State Government and its undertaking (in which case the land shall be acquired up to such distance on both sides

of designed railway lines or roads and as specified by the Government for specific projects from time to time and notified as such in State Gazette);

and

(e) Infrastructure projects, including projects under public-private partnership where the ownership of the land continues to vest with the Government:

Provided that the State Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the

minimum land required for such project.

11. Publication of preliminary notification and power 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-division 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 (1) 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 purposes of rehabilitation and resettlement under Section 43.

(4) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Chapter are completed:

Provided that the Collector may, on the application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

(5) After issuance of notice under sub-section (1), the Collector shall, before the issue of a declaration under section 19, undertake and complete the exercise of updating of land records as prescribed within a period of two months.

15. Hearing of objections: (1) Any person interested in any land which has been notified under sub-section (1) of section 11, as being required or likely to be required for a public purpose, may within sixty days from the date of the publication of the preliminary notification, object to: (a) the area and suitability of land proposed to be acquired; (b) justification offered for public purpose; (c) the findings of the Social Impact Assessment report.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by an Advocate and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 11, or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him along with a separate report giving therein the approximate cost of land acquisition, particulars as to the number of affected families likely to be resettled, for the decision of that Government.

(3) The decision of the appropriate Government on the objections made under

sub-section (2) shall be final.â??

8. In the light of the above statutory provisions, it is very clear that the State Government in exercise of powers conferred under Section 10A of the

Land Acquisition Act, 2013 has issued an exemption notification as the project is an infrastructure project and there was a great need for construction

of Four Lane Carriageway keeping in view the heavy vehicular traffic. The objections of the appellants/ petitioners have been considered even though

they were submitted beyond the period prescribed by the statute and a detailed speaking order has been passed taking into account all the grounds

raised by the appellants/ petitioners. The issue regarding High Tension Lines has also been looked into and the undisputed facts of the case reveal that

the land is being acquired from large number of persons about more than fifty, including the lands from Kardanoor and it is only the

appellants/petitioners, who are raising hue and cry, even though they are having small piece of land which is only Acs.0.20 guntas each, out of the total

land proposed to be acquired is Acs.40.16 guntas. The other land owners are not at all aggrieved in the matter.

9. It has been argued by the learned counsel for the appellants/petitioners that there is already an existing road beneath the High Tension lines for a

length of 200 metres and 670 metres in Surya Vamshi layout. It was argued before this Court that the road can be widened. This aspect has also been

taken care of by the competent authority and in case of widening of the road is done on both the sides of transmission lines, it will not be in straight line

and it will be in zigzag manner, which will obstruct the smooth flow of the traffic and in case of accident, the transmission lines will get affected and it

will result in disruption of power supply and will also lead to collapse of the entire grid. Not only this, the area required in that case is Acs.52.02

guntas, plus Acs.9.33 guntas, totalling to Acs.61.25 guntas, whereas in the present case, the land required is only Acs.40.16 guntas and therefore,

after carrying out all studies the project has been approved ensuring minimum land acquisition.

10. The Honâ??ble Supreme Court in the case of Hyderabad Urban Development Authority (HUDA) v. S.B.Kirloskar (2020) 15 SCC 449, was

dealing with a case relating to land acquisition for construction of Outer Ring Road around twin cities of Hyderabad and Secunderabad. There were

allegations that the alignment of the road was changed to benefit some influential incumbents and the acquisition proceedings were commenced for extraneous considerations. The Honâ??ble Supreme Court taking into account huge investment for development project and other developmental activity and peculiarity of facts has declined to interfere. In the present case also, the Four Lane Road is being constructed, which is a development project and the acquisition is made after preparing a proper plan with the help of technical experts. The Honâ??ble Supreme Court has declined to interfere in the matter keeping in view the peculiarity of the case. Though the order was passed in the peculiar facts of the case, it was also observed that the same shall not be treated as precedent in other matters. However, the fact remains that the present case is a development project of Four Lane Road is being constructed, shortest distance has been taken between two points and minimum land is being acquired for construction of the road and therefore, the question of interference by this Court does not arise.

11. The appellants/petitioners have not been able to point out violation of any statutory provision of law as contained under the Land Acquisition Act,

2013. The project is based upon the Expert Committee Report. The technical experts have given their opinion and this Court is not an expert body to

give its own opinion superseding the technical expertâ??s opinion only because the appellants/ petitioners do not want the road to be constructed. The

larger public interest has to prevail over private interest and it is nobodyâ??s case that the land is being acquired with oblique and ulterior motives.

The construction of the road is taking place in larger public interest keeping in view the traffic congestion, which is taking place in the industrial area

and the respondents have followed fair and transparent procedure as provided under the Land Acquisition Act, 2013. The objections of the appellants/

petitioners have been dealt with in a transparent manner.

12. In the light of the aforesaid, this Court does not find any reason to interfere with the Order passed by the learned Single Judge and the Writ

Appeal is accordingly dismissed.

Miscellaneous applications, if any pending, shall stand dismissed. There shall be no order as to costs.