

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**WRIT PETITION Nos.37452 OF 2021, 18355, 21687 AND
21734 OF 2022**

1) WRIT PETITION NO.37452 OF 2021

Between:

1. Ranga Gundaiah s/o Late Sri R. Nagaiah, aged about 76 years ,
occ: Retired Junior College Lecturer, R/o H.No.10-56, Near Sri
Laxmi Narsimha Swamy Temple, Dharmapuri Jagityal
,Karimnagar District and another.

...Petitioner(s)

AND

1. The State of Telangana, represented by its Principal Secretary to
Government, Revenue (Endowments.II) Department, Secretariat,
Hyderabad and 4 others.

...Respondents

2) WRIT PETITION NO.18355 OF 2022

Between:

1. Sri Sachidanandashramam, Sri Matam, Dharmapuri, represented
by its Managing Trustee, Sri Sachidananda Saraswathi S/o Late
Ramamurthy, Aged about 54 Years, Occ: Spiritualist,
R/o. Tapovanam, Kummarilova Tuni, Kakinada District-533401.

...Petitioner(s)

AND

1. The State of Telangana, Rep. by its Principal Secretary, Revenue
Department (Endowments), Secretariat, Hyderabad and 4
others.

...Respondents

3) WRIT PETITION NO.21687 OF 2022

Between:

1. Madhu Ramasharma S/o Rama Krishna, aged about 62 years,
occ: Retd. Teacher, R/o. H.No.10-64, Dharmapuri Town and
Mandal, Jagtial District, Telangana-505425.

...Petitioner(s)

AND

1. The State of Telangana, Rep. by its Principal Secretary to
Government, Revenue (Endowments.II) Department, Secretariat,
Hyderabad and 5 others.

...Respondents

4) WRIT PETITION NO.21734 OF 2022

Between:

1. Kakarla Dattatri S/o Kakarla Laxmi Kantha Shastry, Aged about 75 years, Occ: Retd. Employee, R/o. H.No.10-60/A, Dharmapuri Town and Mandal, Jagtial District, Telangana-505425.

...Petitioner(s)

AND

1. The State of Telangana, Rep. by its Principal Secretary to Government, Revenue (Endowments-II) Department, Secretariat, Hyderabad and 5 others.

...Respondents

JUDGMENT PRONOUNCED ON: 18.08.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

MUMMINENI SUDHEER KUMAR, J

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

**WRIT PETITION Nos.37452 OF 2021, 18355, 21687 AND
21734 OF 2022**

%Dated 18.08.2023

1) WRIT PETITION NO.37452 OF 2021

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AND

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2) WRIT PETITION NO.18355 OF 2022

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...Petitioner(s)

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- \$ 1. The State of Telangana, Rep. by its Principal Secretary, Revenue Department (Endowments), Secretariat, Hyderabad and 4 others.

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3) WRIT PETITION NO.21687 OF 2022

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4) WRIT PETITION NO.21734 OF 2022

1. Sri Kakarla Dattatri S/o Kakarla Laxmi Kantha Shastry, Aged about 75 years, Occ: Retd. Employee, R/o. H.No.10-60/A, Dharmapuri Town and Mandal, Jagtial District, Telangana-505425.

...Petitioner(s)

AND

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...Respondents

! Counsel for Petitioner(s):

1. Mr. Resu Mahendar Reddy, learned Senior Counsel in Writ Petition No.18355 of 2022,
2. Mr. S.Chandra Shekar, learned counsel in Writ Petition No.37452 of 2021,
3. Mr. Madas Bharath Chandra, learned counsel in Writ Petition Nos.21687 and 21734 of 2022.

^ Counsel for Respondents:

1. Mr. A.Sanjeev Kumar, learned Special Government Pleader representing learned Additional Advocate General,
2. Mr. J.R.Manohar Rao, learned Standing Counsel.

< GIST :

> HEAD NOTE :

? Cases referred:

1. Writ Petition (PIL) No.43 of 2018
2. (2022) SCC OnLine SC 1380

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION Nos.37452 OF 2021, 18355, 21687 AND

21734 OF 2022

COMMON ORDER:

All these Writ Petitions are filed questioning G.O.Rt.No.488 Revenue (Endowments.II) Department, dated 23.12.2021, and the consequential preliminary notification bearing No.G1/773/2020, dated 04.02.2022, issued under sub-section (1) of Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act, 2013'), by the respondents and as such, all the Writ Petitions were heard together and are being disposed of by this common order.

2. The impugned Government Order was issued by the Government in exercise of its power under Clause (e) of Section 10(A) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Telangana Amendment) Act, 2016, exempting the application of the provisions of Chapter II and III of the Act, 2013, for acquisition of the private land admeasuring Acs.29.04 gts., and structures around Sri Laxmi Narasimha Swamy Devasthanam, Dharmapuri, for initiating Developmental Works. Pursuant to the said Government Order, the impugned notification, dated 04.02.2022, was issued by

the respondents and the same was published in the Telangana Gazette No.01 of 2022, dated 04.02.2022.

3. The petitioner in Writ Petition No.18355 of 2022 is a trust, questioned the entire notification, dated 04.02.2022, covering an extent of Acs.11.16 gts., of agricultural land and an extent of 6209.59 Sq. Yds. of land covered by various structures. Whereas in Writ Petition Nos.37452 of 2021, 21687 of 2022 and 21734 of 2022, the petitioners therein have challenged the impugned notification only to the extent of land and structures owned by them i.e., an extent of 544 Sq. Yds., 715 Sq. Yds., and 415 Sq. Yds. respectively. The said extents are stated to be covered by houses of the respective petitioners.

4. Heard Sri Resu Mahendar Reddy, learned Senior Counsel appearing for the petitioner in Writ Petition No.18355 of 2022, Sri S.Chandra Shekar, learned counsel for the petitioners in Writ Petition No.37452 of 2021, Sri Madas Bharath Chandra, learned counsel for the petitioners in Writ Petition Nos.21687 and 21734 of 2022, Sri A.Sanjeev Kumar, learned Special Government Pleader representing learned Additional Advocate General and Sri J.R.Manohar Rao, learned Standing Counsel for the respondents.

5. Sri Resu Mahendar Reddy, learned Senior Counsel, contended that the impugned Government Order is mainly attacked

the notification on the ground that the subject land is being acquired for the purpose of the respondent-Temple and as such, the provisions of the Act, 2013 have no application for acquiring the subject land. In other words, it is the contention of learned Senior Counsel that in terms of sub-section (1) of Section 2 of the Act, 2013, the provisions of the said Act apply only when the appropriate Government acquires the land for its own use, hold and control, including for Public Sector Undertakings and for public purpose only, but, in the instant case, the subject land is being acquired for the purpose of the respondent-Temple but not for the purpose of the Government or for the purpose of holding the same for the Government. Further, it is contended that the power under clause (e) of Section 10(A) of the Act, 2013, can be invoked only in respect of acquisitions for the purpose of infrastructure including electrification and irrigation projects and the purpose for which the subject land is being acquired does not fall under any of the projects/purposes covered by Section 10(A) of the Act, 2013. It is also contended that the application of provisions contained in Chapter II and III of the Act, 2013, can be exempted only in case there is urgency for acquiring the lands, but such exemption cannot be granted in a routine manner. Thus, it is contended that the impugned notification issued consequent upon exempting the provisions of Chapter II and III is also liable to be set aside as the

impugned Government order itself is not sustainable. The petitioners in Writ Petition Nos.37452 of 2021, 21687 and 21734 of 2022 have also contended that the respondents have invoked the urgency clause contained under Section 40 of the Act, 2013, though there is no such urgency involved in the matter.

6. On the other hand, Sri A.Sanjeev Kumar, learned Special Government Pleader, contended that the language used in sub-section (1) of Section 2 of the Act, 2013, is only an inclusive in nature, but the same is not exhaustive and further contended that the purposes for which the land can be acquired under the provisions of the Act, 2013 and the application of the provisions of the said Act are clearly enumerated under various clauses of sub-section (1) of Section 2 of the Act, 2013 and thus, contended that the same cannot be narrowed down only to cover the few aspects that are mentioned in sub-section (1) of Section 2 of the Act, 2013, while ignoring the other clauses of the said provision. He further placed a strong reliance on sub-clause (vi) and (vii) of clause (b) of sub-section (1) of Section 2 of the Act, 2013, which provide acquisition of lands for Tourism and Transport etc., and contended that the purpose for which the land in question is now sought to be acquired falls under the Tourism as well as under the Transport, as the land is being acquired for the purpose of providing better roads and also to create various facilities for the

pilgrims who visit the respondent-Temple. By placing reliance on the counter-affidavit filed by respondent No.4, he also contended that every year 1.00 lakh pilgrims will visit the Temple in question on the day of 'Kalyanotsavam' and around 5.00 lakh pilgrims would visit for taking 'Darshan' during the period of 'Bramhostavam' in the month of 'Phaluguna of Telugu Calendar' and that the pilgrims are coming even from other States and they are facing inconvenience to stay in the night and for parking their vehicles coming for 'Darshan' from far away places. It is also stated in the counter-affidavit that during every Tuesday, Saturday and Sunday thousands of pilgrims will be visiting Temple in question.

7. In the light of the arguments advanced by learned counsel on either side and on perusal of the entire material on record, in the considered view of this Court, the questions that arises for consideration in this batch of Writ Petitions is as follows:

(i) Whether the acquisition of the subject land covered by the impugned notification, dated 04.02.2022, for the purpose of Development Works to Sri Lakshmi Narasimha Swamy Devasthanam, Dharmapuri, under Special Development Funds sanctioned vide G.O.Rt.No.378, dated 19.09.2019, falls within the meaning of infrastructure project under Clause (e) of Section 10(A) of the Act, 2013, or not?

(ii) Whether the provisions of the Act, 2013, can be invoked for the purpose of acquisition of the subject lands for the benefit of respondent-Temple in the light of the language used in sub-section (1) of Section 2 of the Act, 2013, or not?

As these two questions that are noted above are interlinked, they are being considered and answered together.

8. Section 10(A) of Chapter III A of the Act, 2013, is a special provision incorporated through a State amendment Act, namely the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Telangana Amendment) Act, 2016, empowering the State Government to exempt the application of Chapter II and III of the Act, 2013, in respect of certain projects mentioned in clause (a) to (e) of Section 10(A) of the Act, 2013. Clause (e) of Section 10A of the Act, 2013, reads as under:

“10A. (1) 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:

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

9. Infrastructure project was defined under clause (o) of Section 3 of the Act, 2013. In terms of the same, the infrastructure project includes any one or more of the items specified in clause (b) of sub-section (1) of section 2 of the Act, 2013. Clause (b) of sub-section (1) of Section 2 of the Act, 2013, provides for various infrastructure

projects, which also includes a project for Tourism, a project for Transport under sub-clause (vi) of clause (b) of sub-section (1) of Section 2 of the Act, 2013. It is not in dispute that the subject Temple is being visited by lakhs of pilgrims every year and about 5.00 lakh pilgrims during 'Brahmotsavam'. These aspects are specifically stated in the counter-affidavit filed by respondent No.4. The said averments are not disputed by the learned counsel for the petitioners. Visiting a place of Worship undoubtedly falls within the meaning of Tourism.

10. It is also specifically pleaded and contended by the respondents that the acquisition in question is for the purpose of developing better roads as well as for the purpose of providing parking facilities for the vehicles of the pilgrims. Once the purpose for which the acquisition is being made falls within the meaning of Tourism, the same would fall within the meaning of infrastructure project as defined under clause (o) of Section 3 of the Act, 2013, once it satisfies the requirement of infrastructure project. The next question that arises for consideration is whether the acquisition in question is for the public purpose or not. The public purpose is defined under sub-clause (za) of Section 3 of the Act, 2013. In terms of the same, public purpose means the activities specified under sub-section (1) of Section 2 of the Act, 2013. As already noted hereinabove, the project for Tourism and Transportation are covered by clause (b) of

sub-section (1) Section 2 of the Act, 2013. Therefore, the acquisition in question would definitely be considered as for the public purpose.

11. The contention of learned counsel appearing for the petitioners is that the acquisition of the land can be taken only for the own use of the appropriate Government to hold and control the same. From the language of sub-section (1) of Section 2 of the Act, 2013, it appears that the acquisition of land can be initiated under the provisions of the Act, 2013, only in case it is for the own use of the appropriate Government and such land should be held and controlled by the appropriate Government including the Public Sector Undertakings, when it is for public purpose. The word 'and' used 'before for public purpose' in sub-section (1) of Section 2 of the Act, 2013, is required to be understood in proper perspective. From the language used in sub-section (1) of Section 2 of the Act, 2013, that is 'land for its own use, hold and control, including for Public Sector Undertakings' would undoubtedly indicate that the same is for public purpose. When the land acquired is being used by the State or held and controlled by the State or Public Sector Undertakings, the same would definitely for the public purpose alone. As there cannot be any private purpose or other purpose when the land is held, controlled or used by the State. In such circumstances, there is no purpose to use the words 'for public purpose and' in sub-section (1) of Section 2 of

the Act, 2013, while providing various purposes that would include the said public purpose. Hence, the word 'and' used before the words 'for public purpose' is to be construed as a disjunctive, but not as a conjunctive. In other words, to give the true intention of the legislature, the said word 'and' is to be read as 'or'. If the same is read as 'or' instead of 'and' the true meaning and purpose of sub-section (1) of Section 2 of the Act, 2013, will be in line with the intention of the legislature. Thus, the provisions of the Act, 2013, would apply to all the acquisition of land, compensation, rehabilitation and resettlement in respect of the lands acquired for the use of the appropriate Government to be held and controlled by the Government and its undertakings besides the land to be acquired for other public purposes. Hence, the contentions raised by the learned counsel appearing for the petitioners contending that the provisions of the Act, 2013, cannot be invoked for the acquisition of the subject land in question for the purpose for which it is being acquired has no substance and the same is liable to be rejected.

12. A Division Bench of this Court also considered the almost identical issue in the case of **Mullangi Vijaya Bhaskar v. The State of Telangana and others**¹, wherein it was held as under:-

“Section 2 (1) of the Central Act opens by saying that the provisions of that Act relating to land acquisition, compensation, rehabilitation and resettlement shall apply when

¹ Writ Petition (PIL) No.43 of 2018

the appropriate Government acquires “**land for its own use, hold and control**” including for public sector undertakings and for public purposes mentioned therein. The second limb of sub-Section (1) of Section 2 includes the various projects enumerated thereunder spreading from clauses (a) to (f) and it enlarges the scope of what has been stated in the opening paragraph of sub-Section (1) of Section (2). Therefore, sub-Section (1) of Section 2 has two limbs of which the first limb stands by itself and gets enlarged to the extent as provided through the second limb. The provision emphasized immediately hereinabove enjoins that the Government may acquire land “**for its own use, hold and control**” and the provisions of the Central Act will apply for such acquisition. Obviously therefore, the acquisition can relate to all matters which fall under the first limb of sub-Section (1) of Section 2.

We are also of the view that that it would not be harmonious, having regard to the objects sought to be achieved by the Central Act to confine the power under Section 10A, as introduced by Telangana Act No.21 of 2017 to be exclusively to electrification and irrigation projects or other infrastructure projects which would fall as enumerated ones under Section 2(1)(b). We may also notice here that even clause (b) of Section 2(1) is an inclusive clause. This is so even when Section 3(o) defines “infrastructure project” apparently with reference to clause (b) of sub-Section (1) of Section 2. This is so because even that definition of the term “infrastructure project” is an inclusive definition.”

13. In the light of the above, though the two points that are framed are answered in negative, as already noted above, the impugned notification covers an extent of 6209.59 Sq. Yds. of land together with structures thereon and an extent of Acs.11.16 gts., of agricultural land, the extent of the land claimed by the petitioners in this batch of Writ Petitions is only 1674 Sq. Yds. land with structures and an extent of Acs.2.04 gts., of agricultural land.

14. As contended by Sri A.Sanjeev Kumar, learned Special Government Pleader, except the lands covered by this batch of Writ Petitions, the acquisition of the rest of the land and structures was

already completed. The land covered by these batch of Writ Petitions is only about 25 percentage of the total land i.e., sought to be acquired through the impugned notification. Whether the acquisition proceedings can be interdicted at the instance of persons having a meager extent of land has fallen for consideration before the Hon'ble Apex Court in the case of **M.S.P.L. Limited v. State of Karnataka and others**², wherein the Hon'ble Apex Court held as under:-

“It is admitted position that the challenge to the acquisition of more than a thousand acres was made by a small fraction of land owners having land less than 10% of the total acquisition. Compensation for rest of the 90% land acquired had been accepted by their respective land owners. The Division Bench has quashed the entire acquisition of more than a thousand acres at the instance of such a small fraction. This aspect has been dealt with by this Court in the case of **Amarjit Singh v. State of Punjab** reported in **(2010) 10 SCC 43** and **Om Prakash v. State of U.P.** reported in **(1998) 6 SCC 1**. The learned Single Judge had placed reliance on the judgment of **Om Prakash (supra)**. It is also worthwhile to mention that out of approx 110 acres of land acquires for MSPL, only one land owner possessing only 4.34 acres of land, had filed the writ appeal before the Division Bench. Quashing the entire acquisition at the instance of one land owner having 4.34 acres of land out of total acquisition for MSPL of 110 acres, would be against the public policy and public interest. The MSPL alone provides employment to 292 persons with a substantial investment of Rs.200 crores. The employment to approximately 300 persons by MSPL is also alleged to be double of the number of employees as projected in the proposal. Further, in the case of **AISL** acquisition of 914 acres is challenged by a fraction of less than 10% land owners. The estimated project of **AISL** is approx Rs.2092 crores and would employment to at least one thousand persons.”

15. For this reason also, in the considered view of this Court, the acquisition proceedings in question cannot be interdicted. Though, certain other aspects were also raised contending that the petitioners

have got some sentimental attachment to their respective houses and also about invoking the urgency clause under Section 40 of the Act, 2013, etc. They are all not the matters that can be considered by this Court and it is for the petitioners to raise all such objections before respondent No.4 and all such objections would be considered by the appropriate Government under Section 15 of the Act, 2013. Insofar as objection on the alleged invocation of Section 40 of the Act, 2013, is concerned, no such urgency clause is invoked in the instant case and in fact, that stage has not arrived at as the proceedings are only at the stage of notification issued under sub-section (1) of Section 11 of the Act, 2013. All such contentions raised in that regard are totally baseless and needs no consideration. All the objections pertaining to losing shelter, accommodation, livelihood etc., are all matters, which can be taken care of by the respondents while undertaking the exercise under Sections 16 to 18 of the Act, 2013.

16. In the light of the above, this Court does not find any merit in these Writ Petitions and accordingly they are dismissed. However, the petitioners are granted liberty to submit their objections in response to the impugned preliminary notification within a period of two (02) weeks from the date of receipt of a copy of this order and on submission of such objections, respondent Nos.3 and 4 shall consider such objections and pass appropriate orders, in accordance with law,

as provided under sub-section (2) of Section 15 of the Act, 2013, and strictly follow the mandatory provisions contained under Sections 16 to 23 of the Act, 2013.

As a sequel, miscellaneous petitions, pending if any in these Writ Petitions, shall stand dismissed. No costs.

MUMMINENI SUDHEER KUMAR, J

Date: 18.08.2023
NDS

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

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NDS