

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION Nos.25832 of 2018 and 31482 of 2023
W.P.No.25832 of 2018

Between:

1. M. Shankar and others.

...Petitioners**AND**

1. State of Telangana, rep. by its Principal Secretary, Revenue Department (LA & JA), Telangana Secretariat Buildings, Hyderabad and others.

...Respondents**W.P.No.31482 of 2023**

Between:

1. Bayikattu Sujamma and others.

...Petitioners**AND**

1. State of Telangana, rep. by its Principal Secretary, Revenue Department (LA & JA), Telangana Secretariat Buildings, Hyderabad and others.

...Respondents**JUDGMENT PRONOUNCED ON: 06.06.2024****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE K.SARATH**

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

JUSTICE K.SARATH

THE HON'BLE SRI JUSTICE K.SARATH**+ WRIT PETITION Nos.25832 of 2018 and 31482 of 2023**

%Dated 06.06.2024

W.P.No.25832 of 2018

Between:

2. M. Shankar and others.

...Petitioners

AND

2. State of Telangana, rep. by its Principal Secretary, Revenue Department (LA & JA), Telangana Secretariat Buildings, Hyderabad and others.

...Respondents

W.P.No.31482 of 2023

Between:

1. Bayikattu Sujamma and others.

...Petitioners

AND

1. State of Telangana, rep. by its Principal Secretary, Revenue Department (LA & JA), Telangana Secretariat Buildings, Hyderabad and others.

...Respondents

! Counsel for Petitioners : Sri Ch. Ravi Kumar.

^ Counsel for Respondents : Sri S. Rahul Reddy, Spl. Government

Pleader for Additional Advocate
General.

Sri L. Prabhakar Reddy, Standing

Counsel for TSIIC

< GIST :

> HEAD NOTE :

? Cases referred :

¹ 2004(2) ALT 546 (L.B.)

² AIR 1964 SC 358

³ AIR 1967 SC 1074

⁴ AIR 1968 SC 647

⁵ (1996) 2 SCC 549

⁶ (2007) 13 SCC 482

⁷ (2020) 2 SCC 569

⁸ (2021) 14 SCC 703

⁹ (2010) 10 SCC 282

¹⁰ (2008) 4 SCC 695

¹¹ (2011) 5 SCC 394.

¹² (2017) 10 SCC 713.

¹³ (1996) 4 SCC 579

¹⁴ (2000) 2 SCC 48

¹⁵ 2016) 14 SCC 191

¹⁶ AIR 1964 SC 685

¹⁷ (2009) 5 SCC 242

¹⁸ (2013) 14 SCC 304

¹⁹ Unreported judgment in W.P.No.15312 of 2016

²⁰ 2023 SCC OnLine TS 621

HON'BLE SRI JUSTICE K.SARATH**WRIT PETITION Nos.25832 of 2018 and 31482 of 2023****COMMON ORDER:**

Since both these writ petitions arise out of the common issue, they are being disposed of by this common order.

2. Heard Sri Ch. Ravi Kumar, learned counsel for the petitioners, Sri S. Rahul Reddy, Special Government Pleader for Additional Advocate General for the respondents and Sri L. Prabhakar Reddy, learned Standing Counsel for the respondent-TSIIC.

3. Learned Counsel for the petitioners submits that the Government has assigned lands to the petitioners, who belong to marginalized sections of the society, in their respective villages and they are cultivating those lands and eking out their livelihood.

4. Learned counsel for the petitioners further submits that in the year, 2015 the officials of the respondents informed the petitioners that they proposed to establish National Investment and Manufacturing Zone (NIMZ) in the lands of their village and other neighbouring villages. An amount of Rs.5,65,000/- per acre was paid to the private patta landowners and an amount of Rs.3,25,000/- and Rs.4,00,000/- per acre were paid to the petitioners for the assigned lands after obtaining their signatures. He submits that with regard to their assigned lands, no registration was done and not a single piece of paper was given to the petitioners and even they were not allowed to read the papers on which their signatures were taken. He further submits that G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 is applicable to private patta lands and the same cannot be applied to the assigned lands as the said transaction

is in contravention of the Telangana Assigned Lands (Prohibition of Transfers) Act, 1977.

5. Learned counsel for the petitioners further submits that as per the Act, 2013, the assigned land holders are also defined as 'affected family', 'land owners' as well as 'interest persons' and in case of acquisition of assigned lands, the procedure under the said Act to be followed and the compensation and rehabilitation entitlements as per the said Act have to be extended to the petitioners. He further submits that without following due process of law and without paying fair compensation and rehabilitation entitlements, the respondents had acquired their lands in the name of public purpose and the petitioners made several representations to the respondent authorities, but no action has been taken and the proceedings initiated by the respondents are liable to be set aside by

allowing the writ petitions and requested to direct the respondents to initiate Land Acquisition Proceedings as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act, 2013').

6. Learned Counsel for the petitioners has relied on the following decisions;

- 1.Land Acquisition Officer-cum-R.D.O., Chevella Division, Hyderabad and others vs. Mekala Pandu and others¹.**
- 2. State of Uttar Pradesh vs. Singhara Singh²**
- 3. Khub Chand vs. State of Rajasthan³**
- 4. State of Orissa vs Sudhansu Sekhar Misra⁴**
- 5. Chameli Singh vs. State of U.P⁵**
- 6.Government of Karnataka vs Gowramma⁶**
- 7. Vidya Devi vs State of Himachal Pradesh⁷**
- 8.B.K.Ravichandra vs. Union of India⁸**

¹ 2004(2) ALT 546 (L.B.)

² AIR 1964 SC 358

³ AIR 1967 SC 1074

⁴ AIR 1968 SC 647

⁵ (1996) 2 SCC 549

⁶ (2007) 13 SCC 482

⁷ (2020) 2 SCC 569

⁸ (2021) 14 SCC 703

7. Learned Special Government Pleader for Additional Advocate General appearing for the respondents submits that the Government of India has announced a National Manufacturing Policy with the object of enhancing the share of manufacturing in GDP to 25% within a decade and creating 100 million jobs. The National Investment and Manufacturing Zones (NIMZ) are important instrumentality of manufacturing policy. They have selected remote area where the land was barren and un-cultivable fallow lands for establishment of NIMZ, Zaheerabad.

8. Learned Special Government Pleader further submits that the authorities have informed the assignees for taking their assigned lands for establishment of NIMZ project and took the applications along with Forms-I and II for procurement of their assigned lands. He submits that the petitioners have

voluntarily came forward and submitted their willingness to part their lands in favour of TSIIC Ltd. As per the rates fixed by the District Level Land Procurement Committee (DLLPC) under G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 i.e, @ Rs.4,00,000/- per acre to the lands which are under cultivation by the assignees and Rs.3,25,000/- per acre to the lands kept fallow by the assignees since long back.

9. Learned Special Government Pleader further submits that sales statistics for the three years before procurement of the said assigned lands i.e., 2013 to 2015 have been assessed as per the Act, 2013. The total market value of the agricultural lands including 1.5% factor and 100% solatium comes to Rs.2,42,494/- per acre in respect of Mungi Village and Rs.2,76,714/- per acre in respect of Yelgoi village, whereas the

authorities have paid land ex-gratia as fixed by the DLLPC @ Rs.4,00,000/- and Rs.3,25,000/- per acre for agricultural land and fallow land respectively and they paid ex-gratia than the market value of the lands.

10. Learned Special Government Pleader further submits that as per G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015, the Tahsildars have started the procurement of lands of willing land owners/assignees for establishment of NIMZ project and the assignees have submitted their applications along with Forms-I and II before the authorities concerned with their willingness and then the Tahsildar concerned have issued notices to the concerned assignees and passed the resumption orders and paid considerable ex-gratia to the assignees. The physical possession of the land was taken and handed over to the TSIIC Ltd., under proper panchanama for

establishment of NIMZ project. He submits that the officers have followed due procedure, paid the reasonable ex-gratia to the eligible assignees and handed over their assigned lands to the respondent No.9-TSIIC Ltd for establishment of NIMZ project.

11. Learned Special Government Pleader further submits that the petitioners in W.P.No.25832 of 2018 have submitted their applications on 24.01.2018 and the petitioners in W.P.No.31482 of 2023 have submitted their applications in the month of October, 2023 with a request to make payment on par with patta lands after a gap of two to seven years from the date of submission of Forms-I and II and received amounts and thereafter approached this Court.

12. Learned Special Government Pleader further submits that the authorities have conducted panchanamas for taking possession of lands in Yelgoi

Village of Jhara Sangam Mandal and Mungi Village of Nyalkal Mandal, possession was taken under Possession Certificates and handed over to the Zonal Manager, TSIIC on different dates and the petitioners have not challenged the resumption proceedings as on this date and the same has become final. He submits that the ex-gratia of assigned lands relating to the petitioners have been paid in the year, 2016 and the physical possession was taken in February, 2016 onwards and handed over to TSIIC Ltd respectively and the subject assigned lands of petitioners have been mutated in the name of TSIIC Ltd., and recorded in Dharani Portal also. He further submits that the assigned lands were acquired for NIMZ project by paying ex-gratia to the assignees by following due process of law and requested to dismiss the writ petitions.

13. Learned Special Government Pleader for the respondents has relied on the following decisions;

- 1. Nand Kishore Gupta Vs State of Uttar Pradesh⁹**
- 2. Swaika Properties (P) Ltd vs. State of Rajasthan¹⁰.**
- 3. Banda Development Authority, Banda Vs Motilal Agarwal¹¹**
- 4. State of Maharashtra Vs. Reliance Industries Limited¹²**
- 5. Reliance Petroleum Ltd. Vs Zaver Chand Popatlal Sumaria¹³**
- 6. Municipal Council, Ahmednagar Vs Shah Hyder Beig¹⁴**
- 7. Ranveer Singh Vs State of Uttar Pradesh through Secretary¹⁵**
- 8. State of Orissa vs Ram Chandra Dev¹⁶**
- 9. Urmila Roy vs Bengal Peerless Housing Development Company Limited¹⁷**
- 10. Mutha Associates vs. State of Maharashtra¹⁸**
- 11. Algi Tukamma, Medak District vs. The Chief Secretary, Hyderabad¹⁹**
- 12. Special Collector, AMRP and SLBC vs. Kinnera Syam²⁰**

⁹ (2010) 10 SCC 282

¹⁰ (2008) 4 SCC 695

¹¹ (2011) 5 SCC 394.

¹² (2017) 10 SCC 713.

¹³ (1996) 4 SCC 579

¹⁴ (2000) 2 SCC 48

¹⁵ (2016) 14 SCC 191

¹⁶ AIR 1964 SC 685

¹⁷ (2009) 5 SCC 242

¹⁸ (2013) 14 SCC 304

¹⁹ Unreported judgment in W.P.No.15312 of 2016

²⁰ 2023 SCC OnLine TS 621

14. Learned Standing Counsel for the respondent-TSIIC based on the counter averments submits that in order to procure the land for establishment of NIMZ, Zaheerabad, the State of Telangana followed G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015. As per the said G.O., the TSIIC has submitted requisition proposals before the District Collector at Sanga Reddy for procuring the land to an extent of Ac.12635.14 gts covering 14 villages of Nyalkal Mandal and 3 villages of Jharasangam Mandal which consists of the assigned lands, patta lands and Government lands as a comprehensive block. The said proposals were approved and the steps were taken by the District Level and Land Procurement Committee by negotiating with the owners and assignees who have voluntarily submitted applications in Forms-I and II before the District Collector agreeing for the rate. Pursuant to the same, the Corporation has deposited

an amount of Rs.166.25 Crores with the LAO through different demand drafts and the possession of the lands were handed over to the Corporation under cover of panchanamas on different dates by demarcating it together with maps. The said land thus vested in the Corporation is free from any encumbrance and thereafter, the name of the Corporation was also mutated in the revenue records as pattedar and possessor.

15. Learned Standing Counsel further submits that the master plan for development of entire project was also entrusted to a consortium of L & T Infrastructure Engineering Limited., Pricewater House Coopers (I) Limited and Mahendra Consulting Engineers Ltd., and soon after approval of the project and after getting ENC clearance, comprehensive developmental activities will be initiated and thereafter, allotments will be made to

achieve the object of industrialization and also generate employment to cater the needs of larger section of the society and requested to dismiss the writ petition.

16. After hearing both sides and perusal of the record, this Court is of the considered view that the petitioners are assignment patta holders and residents of Yelgoi Village, Jharasangam Mandal and Mungi Village, Nyalkal Mandal of Sanga Reddy District. The respondent authorities have proposed to establish National Investment and Manufacturing Zone (NIMZ), Zaheerabad, in the villages of the petitioners and other surrounding villages. The respondents have procured the lands as per G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 in respect of both the villages and paid amounts to the petitioners as well as the other landowners of the respective villages.

17. It is not in dispute that as per the rate fixed by the District Level Land Procurement Committee (DLLPC), the respondents have paid ex-gratia of Rs.4,00,000/-per acre to the lands which are under cultivation by the assignees and Rs.3,25,000/- per acre to the lands kept fallow by the assignees. In both the cases, as per the records submitted by the respondents, all the petitioners have received amounts as per the extents of their assignment pattas in the month of February, 2016 onwards. Before receiving the ex-gratia, the petitioners have submitted Forms-I and II as per G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 in the month of December,2015 and January, 2016. The respondent authorities have issued show cause notices to the petitioners individually in the month of January and February, 2016 for resumption of the lands. The petitioners have not given any explanation with regard

to the said show cause notices. In view of the same, in the month of February, 2016, the respondents have resumed the lands in favour of the Government and categorically stated that the ex-gratia will be paid to the petitioners as per G.O.Ms.No.1307 Revenue (Assignment-I) Department dated 23.12.1993. All these documents were filed by the respondent authorities along with their counters and by way of additional material papers. But the petitioners have not questioned the resumption proceedings.

18. After passing the resumption proceedings, the respondent authorities have handed over the lands to the respondent No.9-Telangana State Industrial Infrastructure Corporation Limited(TSIIC) and the revenue authorities have mutated the lands in the name of TSIIC. The respondent No.9-TSIIC, filed Form-13-B and also pahani adangals in the name of the

respondent No.9 from 2016 onwards along with counter. The petitioners without questioning the resumption proceedings and mutation of the revenue records have received the ex-gratia and thereafter filed representations before the authorities concerned for payment of ex-gratia on par with the private patta holders of their village and other benefits. Nearly after two years and after six years, the petitioners filed W.P.No.25832 of 2018 and W.P.No.31482 of 2023 respectively, questioning the action of the respondents for procuring the assigned lands of the petitioners.

19. In fact, the record reveals that though the petitioners have received resumption notices in the month of December, 2015 and January, 2016, they have not submitted any reply. The petitioners have submitted Forms-I and II as per G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 in the

month of December, 2015 and received amount of Rs.4,00,000/- per acre for the lands which are under cultivation and Rs.3,25,000/- per acre for the lands which are kept fallow respectively.

20. The main contention of the petitioners is that once the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force on 01.01.2014, the respondents cannot acquire the lands of the petitioners without following due procedure as contemplated under the said Act. The G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 cannot be applied to the petitioners as they are not land owners, but they are assignees of the Government Lands. Due to threat and coercive action from the respondents, the petitioners have accepted the ex-gratia and they are ready to return the said ex-gratia and requested to set aside the

proceedings and direct the respondents to initiate land acquisition proceedings as per the Act, 2013.

21. The G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 was issued for procurement of the land from the willing land owners and others by the procuring agency for public purpose. It clearly mentioned that the willing land owners and others, the petitioners being assignment patta holders and they would come within the meaning of others. Moreover, as per the definition of 'land owner' under Section 3(r)(iii) of the Act,2013 includes "any person who is entitled to be granted patta rights on the land under any law of the State including assigned lands". In view of the same, G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 is applicable to the petitioner's case as on the date of resumption and payment of ex-gratia.

22. The petitioners have relied upon the interim order dated 05.01.2017 in W.P.M.P.No.30910 of 2016 in W.P.No.25036 of 2016 stating that the entire proceedings are liable to be set aside and direct the respondents to initiate the proceedings under the Act, 2013. The relevant portion of the above interim order is as follows;

“In the light of what we have held hereinabove, G.O.Ms.No.123 dated 30.07.2015 issued in the exercise of executive power of the State Government under Article 298 of the Constitution of India, can be applied for voluntary purchase of land by the State from willing land owners. However, as the 2013 Act confers certain rights and extends several benefits to the affected families (other than land owners also), clause (b) of the proviso to Article 298 of the Constitution disables the State Government from applying G.O.Ms.No.123 dated 30.07.2015 to voluntarily purchase lands for irrigation projects as it would deny the marginalized sections of society who are dependent upon these lands of the land owners. For their survival of the rights conferred on them by the 2013 Act, more particularly those under Schedules II and III thereof.

Pending disposal of these Writ Petitions, the State Government shall, henceforth, not purchase lands under G.O.Ms.No.123 dated 30.07.2015 for the public purpose of construction of irrigation projects. It is made clear that this order shall not preclude the respondents from acquiring lands

under the 2013 Act on complying with the conditions stipulated therein for rehabilitation and resettlement of all the affected families, other than those land owners whose lands have already been purchased by the State Government under G.O.Ms.No.123 dated 30.07.2015. All these W.P.M.Ps, are accordingly disposed of.”

In the instant case, the respondents have taken Forms-I and II from the petitioners as per G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 in the month of December, 2015 and passed resumption orders and paid ex-gratia to the petitioners from the month of February, 2016 onwards and completed before the interim orders passed by this Court in the above case.

23. The contention of the petitioners is that some of the affected families in NIMZ, Zaheerabad have filed W.P.No.15312 of 2016 questioning the G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 and this Court allowed the said writ petition by setting aside the said G.O., and also G.O.Ms.No.214

Revenue Department dated 20.11.2015. Aggrieved by the said orders, the respondents herein filed W.A.No.677 of 2016 and this Court has granted interim orders on 09.08.2016 and subsequently the same was modified on 16.08.2017 directing the respondents not to dispossess the land owners and affected families from the lands and the said Writ Appeal is still pending. In view of the same, the respondents cannot take steps to dispossess the petitioners till disposal of W.A.No.677 of 2016.

24. The respondents contended that the subject matter in W.P.No.15312 of 2016 and W.A.No.677 of 2016 is not connected to the instant writ petitions as the petitioners herein are assignment patta holders and the petitioners in the said writ petitions are landless agricultural labourers and they have questioned G.O.Ms.No.123 Revenue (JA & LA) Department

dated 30.07.2015. In the instant cases, the petitioners have not questioned the said G.O. Before passing the orders in W.P.No.15312 of 2016, the process of resumption of the lands from the petitioners were completed and the petitioners have also received ex-gratia amounts as per their entitlement.

25. The dispute in W.P.No.15312 of 2016 and W.A.No.677 of 2016 is also with regard to procurement of lands for the purpose of NIMZ, Zaheerabad. But the facts in the instant cases are different from the facts in W.P.No.15312 of 2016. In view of the same, the said interim orders in W.A.No.677 of 2016 are not applicable to the instant cases.

26. The contention of the respondents is that the subject lands belong to the Government and the petitioners are only assignees of the Government lands. At the time of granting pattas, there was a resumption

clause mentioned in the patta certificates. As per the procedure, the respondents have issued show cause notices to the petitioners for resumption of the subject lands, but they failed to submit any objection for resumption of the lands. On the other hand, the petitioners have submitted their willingness to receive ex-gratia as per G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 and they have received ex-gratia in the year, 2016 itself and now seeking compensation as per the Act, 2013 by suppressing the facts before this Court. The further contention of the respondents is that the petitioners without questioning the resumption orders and without questioning the G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 having taken the ex-gratia and filed the writ petitions after a lapse of more than 2 years and 6 years respectively and the same cannot be maintainable.

27. The number of Judgments relied on by the learned counsel for the petitioners are not apply to the facts of the instant cases except **Mekala Pandu's** case (cited 1 supra) as the respondents have not paid the ex-gratia to the petitioners on par with the private patta holders in the same villages.

28. After passing the interim orders dated 05.01.2017 in W.P.M.P.No.30910 of 2016 in W.P.No.25306 of 2016 and batch, the Government issued G.O.Ms.No.53 Industries & Commerce (IP & INF) Department dated 01.08.2017 exempting the National Investment and Manufacturing Zone, Zaheerabad under Section 10-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and also clarified that all efforts have been made in finalizing the minimum extent of land required for the said project. Now, the petitioners wanted to follow the

Land Acquisition Act, 2013, but not questioned G.O.Ms.No.53 dated 01.08.2017 which was issued before filing of the writ petitions. In view of the same, the Judgments relied on by the learned counsel for the petitioners are not apply to the instant cases.

29. Some of the Judgments relied on by the learned Special Government Pleader are apply to the instant cases and the same are as follows;

(i) In **Nand Kishore Gupta's** case (cited 9 supra), the Hon'ble Supreme Court held at para No.46 as under;

“The learned Counsel appearing on behalf of the appellants could not deny the fact that the total number of petitioners concerned in these acquisition proceedings, coming up before the High Court, was extremely insignificant as compared to those who had accepted the compensation. Of course, that by itself may not be the only reason to hold against the appellants (petitioners), however, that fact will have to be kept in mind while deciding the issues which cover the whole acquisition process, which acquisition is for the purpose of development of 25 million square meters of land. The High Court has also noticed this aspect. We have mentioned this aspect only with a limited objective of showing that the criticism against the whole scheme which would invalidate the acquisition would be difficult to be accepted, particularly in this case, in view of the fact that majority of

the land owners have parted with possession, taken the compensation and thus, the whole scheme has progressed to a substantial level, wherefrom it will be extremely difficult now to turn back to square one.

The above Judgment is apply to the instant case. Except the petitioners, other land owners have not questioned the impugned procedure followed by the respondents as per G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015. The petitioners also after receiving the amounts made representations for enhancement of ex-gratia on par with private patta holders. But requested to set aside the entire proceedings before this Court. The assigned lands of the petitioners were taken over and handed over to the respondent No.9 and revenue records were also mutated. At this stage, the entire proceedings cannot be set aside without questioning the said proceedings.

(ii) In **Banda Development Authority's** case (cited 11 supra), the Hon'ble Supreme Court held at para No.37 as under;

37. The principles which can be culled out from the above noted judgments are:

i) No hard and fast rule can be laid down as to what act would constitute taking of possession of the acquired land.

ii) If the acquired land is vacant, the act of the concerned State authority to go to the spot and prepare a panchnama will ordinarily be treated as sufficient to constitute taking of possession.

iii) If crop is standing on the acquired land or building/structure exists, mere going on the spot by the concerned authority will, by itself, be not sufficient for taking possession. Ordinarily, in such cases, the concerned authority will have to give notice to the occupier of the building/structure or the person who has cultivated the land and take possession in the presence of independent witnesses and get their signatures on the panchnama. Of course, refusal of the owner of the land or building/structure may not lead to an inference that the possession of the acquired land has not been taken.

iv) If the acquisition is of a large tract of land, it may not be possible for the acquiring/designated authority to take physical possession of each and every parcel of the land and it will be sufficient that symbolic possession is taken by preparing appropriate document in the presence of independent witnesses and getting their signatures on such document.

v) If beneficiary of the acquisition is an agency/instrumentality of the State and 80% of the total compensation is deposited in terms of [Section 17\(3A\)](#) and substantial portion of the acquired land has been utilised in furtherance of the particular public purpose, then the Court may reasonably presume that possession of the acquired land has been taken.

Para 37 (iv) of the above Judgment is apply to the instant cases as the land in the instant cases is huge extent and symbolic possession is sufficient. The

contention of the petitioners is that as on this date, they are in possession of the land and the respondents have not taken over their lands, but the respondents have filed the relevant documents, which shows that the lands were resumed in favour of the Government and the same were allotted to the respondent No.9 and the revenue records were also mutated to that effect. Therefore, it is presumed that possession of the acquired lands have been taken by the respondents.

(iii). In **Municipal Council's** case (cited 14 supra), the Hon'ble Supreme Court held at para No.14 as under;

"The High Court has thus misplaced the factual details and misread the same. It is now a well-settled principle of law and we need not dilate on this score to the effect that while no period of limitation is fixed but in the normal course of events, the period, the party is required for filing a civil proceeding ought to be the guiding factor. While it is true that this extraordinary jurisdiction is available to mitigate the sufferings of the people in general but it is not out of place to mention that this extraordinary jurisdiction, has been conferred on to the law courts under [Article 226](#) of the Constitution on a very sound equitable principle, Hence, the equitable doctrine, namely, 'delay defects equity' has its fullest application in the matter of grant of relief under [Article 226](#) of the Constitution. The discretionary relief can be had provided one has not by his act or conduct given a go-bye to his rights. Equity favours a vigilant rather than an indolent litigant and this being the basic tenet of law, the question of grant of an order as has been passed in the matter as regards restoration of possession upon cancellation of the notification does not and cannot arise. The High Court as a matter of fact lost sight

of the fact that since the year 1952, the land was specifically reserved for public purposes of school playground and roads in the development plan and may reason therefore, the notification to acquire the land has, therefore, been issued under the provisions of the Act as stated above.

(iv). In **Urmilla Roy's** case (cited 17 supra), the

Hon'ble Supreme Court held at para No.60 as under;

“ It is significant that this letter written by the Attorney Urmila Roy, on behalf of all the land owners spells out that the owners had in fact been willing to negotiate the price for the land at the time when the acquisition were still incomplete as only the Notification under [Section 4](#) of the Act had, at that stage, been issued (4th December 2000). It is also significant that the declaration under [Section 6](#) had been issued on 29th November 2001 and the award rendered on 27th December 2003. It is, therefore, evident that the land owners had, in fact, acquiesced to the acquisition and cannot now turn around to say that the acquisition was bad in law.”

(v) In **Mutha Associates's** case (cited 18 supra), the

Hon'ble Supreme Court held at para No.22 as under;

“22. The view taken by the Constitution Bench in Aflatoon case (supra) has been reiterated by another Constitution Bench decision in Indrapuri Griha Nirman Sahakari Samiti Ltd. v. The State of Rajasthan and Ors. [1973 (4) SCC 296]. To the same effect are the decisions of this Court in Municipal Corporation of Greater Bombay v. I.D.I. Co. Pvt. Ltd. and Ors. [JT 1996 (81) SC 16 : 1996 (11) SCC 501], Ramjas Foundation and Ors. v. Union of India and Ors. [JT 1992 (Suppl.) SC 370] and Larsen & Toubro Ltd. v. State of Gujarat & Ors. [JT 1998 (2) SC 536 : 1998 (4) SCC 387]. The common thread that runs through all these decisions is that in order to succeed in a challenge to the acquisition proceedings the interested person must remain vigilant and watchful. If instead of doing so, the interested person allows grass to grow under his feet he cannot invoke the powers of judicial review exercisable under Article 226 of the Constitution. The failure of the interested persons to seek redress at the appropriate stage and without undue delay would in such cases give rise to an inference that they have waived of their objections to the acquisitions. The bottom line is that the High Court can legitimately decline to invoke their powers of judicial review to interfere with the acquisition proceedings under Article 226 of the Constitution if the challenge to such proceedings is

belated and the explanation offered a mere moon shine as is the position in the case at hand. The High Court has in the fact situation of this case rightly exercised its discretion in refusing to interfere with the acquisition proceedings.

The above Judgments also apply to the instant cases as the petitioners have submitted Forms-I and II for receiving amounts as per G.O.Ms.No.123 Revenue (JA & LA) Department dated 30.07.2015 and received resumption notices and received ex-gratia amounts from February, 2016 onwards and not questioned the resumption orders and mutation of revenue records.

30. There is no dispute with regard to the receiving of the amounts by the petitioners in different dates from February, 2016 onwards. As per the statements of the acquittance register, some of the petitioners have received amounts up to Rs.20,00,000/- for the cultivable lands and up to Rs.16,25,000/- for the lands kept fallow. Once the petitioners have received amounts, the contention that they have no knowledge about the proceedings with

regard to the resumption of the lands, conducting of panchanamas, taking over possession and handing over the lands to the respondent No.9 cannot be decided by this Court under Article 226 of the Constitution of India. Ordinarily, this Court cannot examine the disputed question of fact in writ proceedings whether under the threat or coercion the petitioners have received the amounts. Moreover, the petitioners in spite of receiving the counters long back have not questioned the resumption proceedings and mutation of the records in favour of the respondent No.9-TSIIC.

31. In the instant cases, the petitioners have received an amount of Rs.4,00,000/- per acre to the lands which are under cultivation by the assignees and Rs.3,25,000/- per acre to the lands kept fallow by the assignees respectively. In view of the same, this Court is not inclined to set aside the entire proceedings initiated

by the respondents. But the petitioners have right to get the ex-gratia on par with the private patta holders of the same villages.

32. The respondents have filed the proceedings of District Level Land Procurement Committee (DLLPC) along with the counter and calculation of the compensation as per the Act, 2013. Taking into account the sales statistics for the last three years before 2015, the value of the agricultural lands including 1.5% factor and 100% solatium comes to Rs.2,42,494/- per acre in respect of Mungi Village and Rs.2,76,714/- per acre in respect of Yelgoi village and the respondents have paid ex-gratia to an amount of Rs.4,00,000/- per acre and to an amount of Rs.3,25,000/-per acre respectively to the assignment patta holders and paid to an amount of Rs.5,65,000/- to the patta holders of both the villages. The said

action is discriminatory and contrary to the Judgment of the Full Bench of this Court in **Mekala Pandu's** case (cited 1 supra) and the petitioners are also eligible for payment of compensation on par with the patta holders.

33. The Division Bench of this Court in **Special Collector's** case (cited 20 supra), held as follows;

“27. Thus, from a careful analysis of the decisions of this Court in Mekala Pandu (supra) and B. Narayan Swamy (supra), it is evident that assignees of government land are entitled to payment of compensation equivalent to the full market value of the land and other benefits at par with the full owners of the land even in cases where the assigned lands were taken possession of by the State in accordance with the terms of the grant notwithstanding the fact that such resumption was for a public purpose. Therefore, the legal position is that assignees of government land are entitled to compensation at par with the pattaholders. This legal right of respondents No. 1 to 27 was not given due recognition by the appellants all along.

34. As per settled law, in **Mekala Pandu's** case (cited 1 supra) and also the Division Bench Judgment of this Court in **Special Collector's** case (cited 20 supra), the petitioners are entitled to receive ex-gratia on par with the private patta holders in their respective villages

@ Rs.5,65,000/- per acre and the respondents have to pay the said differential amount to the petitioners.

35. In view of the above findings, both the Writ Petitions are disposed of declaring that the petitioners are entitled to receive ex-gratia on par with the private patta holders of their villages @ Rs.5,65,000/- per acre and the respondents are directed to pay the differential amount with accrued interest by excluding the amount received by the petitioners in respect of the lands situated in their villages i.e, Yelgoi Village, Jharasangam Mandal and Mungi Village, Nyalkal Mandal of Sangareddy District, which were procured for the purpose of National Investment and Manufacturing Zone (NIMZ), Zaheerabad, within eight (8) weeks from the date of receipt of a copy of this order.

36. Miscellaneous applications, if any pending in these writ petitions, shall stand closed.

Date: 06.06.2024

sj

K. SARATH, J