

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.3901 OF 2023

Between:

Vasireddy Appa Rao

... Petitioner

And

The Union of India and others

... Respondents

JUDGMENT PRONOUNCED ON: 29.11.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**WRIT PETITION No.3901 OF 2023**

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... Respondents

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> Head Note:

! Counsel for the Petitioner : Mr M.Prateek Reddy

^ Counsel for Respondent No.1: G.P. for Revenue

^ Counsel for Respondent No..2, 3 &6: G.P. for Revenue

^ Counsel for Respondent Nos.4 and 5:P.Harinath Guptha
Standing counsel for NHAI

? Cases Referred:

1. (2011) 15 SCC 383
2. 2013 (14) SCC 737
3. 2011 (12) SCC 375
4. 2010(1) SCC 242
5. 2009 (14) SCC 28
6. 2004 (8) SCC 453
7. 2004 (8) SCC 14

HON'BLE MRS JUSTICE SUREPALLI NANDA**WRIT PETITION No.3901 OF 2023****ORDER:**

Heard Mr M.Prateek Reddy, the learned counsel appearing on behalf of the petitioner, Mr G.Praveen Kumar. Learned Deputy Solicitor General of India appearing on behalf of respondent No.1, learned Government Pleader for Revenue appearing on behalf of respondent Nos.2, 3 and 6 and Mr P.Harinath Gupta, learned standing counsel appearing on behalf of respondent Nos.4 and 5.

2. This Writ Petition is filed to issue a Writ of Mandamus declaring the action of the 3rd respondent in issuing Land Acquisition Award vide Rc.No.G1/2078/2018-Structure, dated 27.12.2022 without conducting a proper valuation of red sandalwood and sandalwood trees on the Petitioner's land measuring Ac. 11.27 Gts of agricultural land in Survey Nos. 1254, 1254/AA, 1263, 1264, 1265, 1274/AA at Yerraboinapally Village, Kalluru Mandal, Khammam District, Telangana, the action of Respondent No.1 in issuing notification under Section 3D of the National Highways Act, 1956 published in Central

Gazette No. 4862, dated 16.12.2021 and in issuing notification under Section 3D of the National Highways Act, 1956 in Central Gazette No. 3463, dated 30.10.2020 without disposing the petitioner's objections under Section 3C of the said Act and the actions of the 5th respondent in attempting to fell the said red sandalwood and sandalwood trees on the Petitioner's land as illegal and unjust and consequently, direct the respondents not to interfere with the red sandalwood and sandalwood trees on the Petitioner's land without conducting a proper and reasonable valuation of the said trees.

3. The case of the Petitioner, in brief, is as follows:

- a) Petitioner is the absolute owner and possessor of the land admeasuring AC. 11.27 Guntas at Yerraboinapally Village, Kalluru Mandal, Khammam District, Telangana having purchased the same vide registered sale deed dated 14.10.2009 bearing document No.2557 of 2009. The petitioner had been using the said land for growing certain crops and moreover, the said land had several sandalwood, red sander, mango and other trees, which the petitioner had been caring.
- b) The Red Sandalwood and Sandalwood trees were already five years old when the petitioner had purchased the land. In the

year 2020, the Government of India had proposed to acquire land for laying, four lane road from Khammam to Devarapally.

c) Government of India initially appointed the Joint Collector, Khammam as the Competent Authority Land Acquisition (CALA) and later the Additional Collector, Khammam was appointed as Competent Authority Land Acquisition (CALA).

d) The 1st respondent issued a public notice dated 09.11.2020 in the Newspaper for acquiring land for the above mentioned project, which included the land of the petitioner, to an extent of Ac. 2.20. Petitioner then made a representation to Joint Collector dated 27.11.2020 raising certain objections.

e) Thereafter, petitioner made further representation on 24.02.2021 to the District Collector & Magistrate, Khammam District referring to the auction conducted on the sale of Red Sandalwoods logs for Government of Andhra Pradesh and requested for reasonable compensation for petitioner's red sandalwood and the same had been forwarded to the Tahsildar vide letter dated 16.12.2020 directing to conduct a field inspection.

f) The Land Acquisition Authorities have requested multiple forest officers in and out of Telangana State, with regards to the procedure for acquiring lands with sandalwood trees.

g) The objections raised in representations of the petitioner were not disposed by the land acquisition authorities and moreover it is evident that the Government has no knowledge about the procedure to be followed for determining the amount of land acquisition compensation for red sandalwood and sandalwood trees and despite the same, the 3rd respondent issued award vide Rc.No.G1/2186/2019-Structure Award dated 05.03.2022 disposing of the petitioner's representation, without granting an opportunity for hearing to the petitioner.

h) CALA, has deposited money into petitioner's account on certain dates, against which the petitioner had written to the 3rd respondent and protested, against the respondents depositing amount in to petitioner's account arbitrarily. Petitioner then issued legal notices dated 08.03.2022 and 19.07.2022 upon the 1st, 3rd and 4th respondents objecting the arbitrary deposits of amounts and requested the information regarding the determination of compensation amount and the award proceedings.

i) On 18.09.2022, the 3rd respondent had illegally chipped off the substantial parts of the trunks of the red sandalwoods trees without giving any notice to the petitioner. Aggrieved by the action of the respondents, petitioner filed W.P. No. 36682 of

2022 and the court had passed orders on 22.09.2022 condemning the action of the respondents in chopping and damaging the red sandalwood trees in the petitioner's land without determining and paying adequate compensation and to have a valuation of the trees on the petitioner's land.

j) The impugned award proceedings dated 27.12.2022 were never issued on the petitioner and a certain amount was credited into the petitioner's account for the trees which were chipped off. The officials from National Highway Authority of India (NHAI) entered petitioner's land and threatened to chop other Red Sandalwood trees too, as the award had already been passed. Petitioner procured a copy of the notice from the official website as no notice had been served on him and the same is illegal.

k) Moreover, as per section 3G(5) of the National Highways Act, 1956, if the amount is determined by the competent authority under section 3G (2)(1) of the National Highways Act, 1956 and the same is not acceptable by either of the parties, then it is for the Arbitrator, appointed by the Central Government to determine the price. But in the instant case, the respondents have not followed any procedure in at the valuation of the price, which would make it impossible for the authorities

or arbitrator to arrive at a fair valuation. Hence the present Writ Petition.

4. The counter affidavit filed by respondent No.3, in particular paras 3, 4 and 6 read, as under:

"3. In reply to the averments made in Para Nos.1 to 3 of the Petitioner's affidavit, it is submitted that, the present writ petition is filed to direct the respondents not to interfere with the red sandalwood and sandalwood trees on the petitioners land measuring Acs.11.27 guntas of agricultural land in Sy.No.1254, 1254/AA, 1263, 1264, 1265, 1274/AA situated at Yerraboinapally Village of Kalluru Mandal, Khammam District. The Government of India, Ministry of Road Transport and Highways has filed requisition proposals for construction of four lane Khammam-Devarapalli Greenfield National Highway connecting Telangana & Andhra Pradesh States under Economic Corridor under Bharathmala Pariyojajna. The Respondent No.2 i.e., District Collector, Khammam has issued orders appointing the Joint Collector, Khammam District as Competent Authority. The Government of Telangana Vide G.O.Ms.No.399 GA (Spl.A) Dept dated: 09.02.2020 has appointed the Additional Collectors in all the District of Telangana in place of the Joint Collectors. As such the Additional Collector, Khammam District is the Competent Authority for Land Acquisition for the subject acquisition of land vide proceedings Rc.No.G1/2078/2018 and Respondent No.3. Accordingly, the Competent

Authority has issued the following Preliminary Notifications u/s 3(A) of the National Highway Act 1956 calling for objections if any.

4. In reply to the averments made in Para Nos.4 and 5 of the Petitioner's affidavit, it is submitted that, in response to 3A notifications, those land losers who have filed objection petitions under section 3(c) within the statutory period, the Competent Authority has issued notices to the objection petitioners and conducted hearing u/s 3 (C) of the National Highway Act, 1956. Thereafter, the orders U/s. 3(c) was passed on 21.07.2020. It is to state that the petitioner himself averred that 3(c) objections were filed on 27.11.2020 after conducting of 3(c) enquiry. Thereafter, 3(D) was issued on 29.10.2020 and award enquiry notices U/s.3G were issued on 07.11.2020 and the petitioner appeared on 27.11.2020, the attendance sheet is being filed as material paper. Therefore, the contention that no opportunity was given is being denied.

6. In reply to the averments made in Para Nos.8 and 9 of the Petitioner's affidavit, it is submitted that as per the award proceedings of the Competent Authority the following agricultural lands of the writ petitioner herein has been acquired by the Government for this project;

S.No.	Award No.	Survey No.	Extent sq.Mtrs.	in	Compensation amount
01.		1264	2150.000		Rs.12,89,954.00
02	G1/2188/2019, Dt.23.12.2021	1265	1517.571		Rs.9,10,510,00
03.		1267	107.136		Rs.64,279.00

04		1266	1112.885	Rs.6,67,707.00
05.	G1/2188/2019-2 Dt. 05.01.2022	1264	176.942	Rs.1,02,517.00
06.		1267	550.478	Rs.3,18,939.00
		Total	5615.012	Rs.33,53,906.00

After passing of the award and after depositing the required compensation amount by the National Highways Authority of India, the compensation amount has been credited into the bank accounts of the land losers duly collecting the bank accounts of the land losers from the Tahsildars concerned to avoid the delay in the disbursement of the compensation. The land losers have voluntarily given their bank accounts. The writ petitioner herein has also submitted his Bank Account No.62132461450 State Bank of India, Rotary Nagar Branch Khammam. Accordingly the Competent Authority has deposited the compensation amount awarded to the writ petitioner an amount of Rs.33,53,906.00 (Rupees Thirty Three lakhs fifty three thousand nine hundred and six only) and also structure values compensation an amount of Rs.7,80,902/- (Rs.Seven lakhs eighty thousand nine hundred and two only).

5. Counter affidavit filed by the 5th respondent in I.A.No.2 of 2023 in W.P.No.3901 of 2023, in particular paras 3, 4, 5 and 6, read as under:

"3. I submit that the Khammam Devarapally Section of NH- 365 BG is important Project aimed to improve connectivity between Khammam in Telangana State to Devarapally in Andhra Pradesh. Total Length 162.126 km.

It is a Green field alignment and Land acquisition has been carried out as per NH Act 1956. The petitioner is one among the land parties and his lands contain 96 no's of Red Sandal Trees, which are still in standing in the project highway.

4. National Highway Authority of India, PIU Khammam Uls. 3 (a) Gazette of India notified the joint collector, Khammam as the Competent Authority for Land Acquisition (CALA) and the same was later treated as Additional Collectors after their appointment in the district vide GO. Rt.No.399 dt. 09.02.2020. Therefore, the Additional Collector, Khammam is supposedly the Competent Authority, Land Acquisition under the Act, and authorise totake up Land Acquisition.

5. In reply to paras 4, 7 & 8 it is submitted that the petitioner's land admeasuring an extent of 4887.592 sq. mts. In sy.no. 1264, 1265, 1266, and 1267 has been proposed to be acquired. And U/s. 3 A Notification published in the News Papers Mana Telangana & The Hans India on 14.01.2020. After publication of 3A notification, certain objections were received from the concerned land losers / interested persons. Accordingly, the CALA & Addl. Collector, Khammam has conducted 3C hearing with the concerned and after hearing all the objections raised by them, the CALA has disposed off the objections and issued orders vide proceedings RC.No.G1/2078/2018, dated 21.07.2020 to proceed further. 3D Notification vide S.O. No. 3927€, dated 29.10.2020 and 3G public notice has been published in the News papers by CALA cum Addl.

Collector, Khammam G1/2186/2019, dt. 07.11.2020 in The Hans India on 09.11.2020 and Mana Telangana on 10.11.2020 and conducted 3G Enquiry on 01.12.2020. Then the 3G award was passed for an amount of Rs. 29,32,450/- and the same was deposited to the land looser by CALA, Khammam.

6. I submit further that also land admeasuring an extent of 727.42 sq. mts. In sy. No. 1264, 1267 has been proposed to be acquired U/s 3A Notification published by MORTH vide Gazette S.O. No. 4577(E), dated 17.12.2020 and the same was published in the News Papers Mana Telangana & The Times of India on 25.12.2020. After publication of 3A notification, certain objections were received from the concerned land losers / interested persons. Accordingly, the CALA & Addl. Collector, Khammam has conducted 3C hearing with the concerned and after hearing all the objections raised by them, the CALA has disposed off the objections 3D Notification vide S.O. No. 5243 (E), dated 16.12.2021 and 3G Public notice has been published in the News Papers CALA cum Addl. Collector, Khammam G1/2078/2018, dt. 27.12.2021 The Times of India & Mana Telangana on 29.12.2021 conducted 3G Enquiry on 30.12.2021. Then the Award was passed for an amount of Rs. 4,21,456/- and the same was deposited to the land looser by CALA, Khammam. U s. 3E of NH act 1956 pubic notice Dt. 22.07.2022 was published in the News Paper. The Hindu and Mana Telangana on 04.08.2022.

PERUSED THE RECORD

6. The order dated 26.09.2022 passed in W.P.No.36682 of 2022, reads as under:

"This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in chopping and damaging the red sandal wood trees and sandal wood trees on the petitioner's land admeasuring Acs.11.27 guntas in Survey Nos.1254, 1254/AA, 1263, 1264, 1265 and 1274/AA situated at Yerraboinapally Village, Kalluru Mandal, Khammam District, without determining and paying adequate compensation amount under Khammam-Deverapally Green Field Alignment Project, as illegal and arbitrary.

2. Heard Mr. M. Prateek Reddy, learned counsel for the petitioner, Ms. B. Kavitha Yadav, learned Standing Counsel for Central Government, learned Assistant Government Pleader for Land Acquisition and Mr. Alladi Ravinder, learned Standing Counsel for the National Highways Authority of India (NHAI).

3. Mr. Alladi Ravinder, learned Standing Counsel for NHAI, has placed on record the written instructions received from respondent No.5-Project Director of National Highways Authority of India and submitted that due to non-availability of the rates of the red sandal wood trees in the Forest Department, valuation of the said trees could not be completed. A Special Committee has been constituted for finalizing the valuation of red Sandal wood trees as per the rates identified by ACF, Government Sandal wood Depot of Karnataka.

4. Learned counsel for the petitioner submitted that the respondents have started felling the red sandal wood trees and the same cannot be permitted until valuation of the trees is completed.

5. In response to the above submission of the learned counsel for the petitioner, learned Standing Counsel for NHAI submitted that there are guidelines stipulated for felling of trees and the same cannot be done without obtaining permission from the Telangana Forest Department. Learned Standing Counsel also submits that red sandal wood trees in the subject property will be properly verified and valuation of the trees will be completed and, till such time, there will be no felling of trees.

6. However, learned counsel for the petitioner apprehends that the respondents have started damaging the red sandal wood trees and sandal wood trees and, in proof of the same, he has drawn attention of this Court to the photographs filed along with the writ papers.

7. In view of the above, by placing on record the written instructions of the learned Standing Counsel and assurance given by him, the writ petition is disposed of directing the respondents not to fell red sandal wood trees and sandal wood trees available on the subject land of the petitioner until valuation of the trees is completed. No order as to costs.

7. The order dated 09.02.2023 passed in W.P.No.3901 of 2023, reads as under:

"Post the matter on 14.02.2023 in AMC for getting instructions by learned Assistant Government Pleader for Revenue.

Till then, there shall be interim direction as prayed for.

Office is directed to print the name of Padma Rao Lakkaraju, learned standing counsel for NHAI."

8. Letter Ref.No.16525/2021/Prod.1(i), dated 24.01.2022 of the Principal Chief Conservator of Forests and Head of Forest Force, Telangana addressed to the Chief Conservator of Forests, SLM Tirupathi, reads as under:

"In continuation to the reference 3 cited, it is to inform that the DFO Khammam vide references cited has informed

that (24) Red Sander trees of 68.5 MTS are falling in the proposed land acquisition of SRLIP (Palair Link canal) in non- forest / private lands.

1. Further, the DFO, Khammam has informed that for proposed land acquisition for formation of Greenfield highway from Khammam to Devarapalli in Khammam District, a total (355) No. of Red sander trees wood and (11) Sandal wood trees are available, of which (109) Red sanders trees and (09) Sandal wood trees are proposed to be felled for the proposed Greenfield Highway. As per enumeration, the estimated quantity of (109) Red sanders trees is 59.424 conts and (09) Sandal wood trees is 0.123 cmt.

2. Further, the DFO, Khammam has informed that valuation of Red sanders trees and Sandal wood trees are not available in Khammam Division and also in the offence FSR of Khammam District. As such, the DFO, Khammam has requested the Ananthapur, Guntur and Kurnool Circles of A.P Forest Department to furnish offence FSR rates and while enclosing the FSR rates of these Circles, the DFO has informed that different Circles have mentioned different offence FSRS rates.

3. In this regard, it is informed that in Telangana State, as on date no sale of RS wood/logs has been taken up, to suggest the rate to be fixed for RS trees falling under land acquisition of Government Projects.

4. In view of the above, the Conservator of Forests, WLM Tirupathi Circle, Tirupathi is once again requested to furnish procedure being adopted in Andhra Pradesh State

for fixation of valuation / rates of RS and Sandalwood trees falling in non-forest land / private land which are to be felled under land acquisition for Government developmental Projects. It is also requested to share the upset price details for each grade along with the procedure being followed.

5. It was requested to furnish the above information vide reference 3rd cited but the said report is still awaited in this office.

6. In this regard, it is once again requested to furnish the above information immediately for taking further necessary action in the matter.

9. Letter dated 03.07.2021 of the Forest Range Officer, addressed to the Forest Divisional Officer, Sathupally Division, Sathupally, read as under:

“With reference to the subject above cited, it is informed that the joint survey was conducted with Thasildar, Kalluru and the land owner Sri. Vasireddy Appa Rao, S/o Venkateswara Rao on 03.05.2021 and found as under. There are total (355) No of Red sandal wood and (11) White sandal wood trees are there in the inspected land which belongs to Sri. Vasireddy AppaRao, S/o Venkateswara Rao. Out of which (109) Red sandal wood and (7) white sandal wood trees are there in NH 365 BG from Khammam to Devarapally Green field highway demarcated area.

The total measurement of (109) Red sandal wood and (7) white sandal wood trees are enclosed here with.

10. Learned counsel appearing on behalf of the petitioner mainly puts forth the following submissions:

- a) The 1st respondent issued a public notice dated 09.11.2020 in Hans India English Daily News Paper for acquiring land for the laying of four lane road from Khammam to Devarapalli proposed as a Green field alignment which included petitioner's land to an extent of Ac.2.20 gts in Yerraboinapally Village of Kalluru Mandal, Khammam District.
- b) The Project Director, National Highway of India PIU-Khammam vide its Requisition dated 27.06.2018 has requested the nomination of an officer to be appointed as a Competent Authority under Section 3(a) of the National Highway Act, 1956 for the acquisition of land falling in Khammam District, Additional Collector, Khammam is the competent authority under the Land Acquisition Act vide G.O.Rt.No.399, dated 09.02.2020.
- c) **The petitioner through representation dated 27.11.2020 to the Joint Collector, Khammam District and the Revenue Divisional Officer, Kolluru Mandal raised three main objections i.e.:**

- a. That the survey numbers pertaining to my land are wrongly mentioned as 1266 & 1267, whereas the correct survey numbers are 1264 & 1265 respectively.
 - b. That the number of red sandalwood and sandalwood trees is wrongly mentioned as 151 in the newspaper notification, whereas the correct number is 168.
 - c. That I am willing to cooperate with the land acquisition project of the government but that I seek the correct compensation for the trees that I would be losing.
- d) The petitioner again sent a detailed representation dated 24.02.2021 to the District Collector and Magistrate, Khammam to which the petitioner prayed for reasonable compensation to the petitioner's red sandal wood trees.
- e) In response to the letter of the petitioner dated 24.02.2021 the 3rd respondent has then written to the Tahsildar to conduct field inspection upon petitions received, wherein the petitioner's objections are recorded at Sl.No.7.
- f) The Prl. Chief Conservator of Forests and Head of Forest Force had written letter dated 24.01.2022 addressed to the Chief Conservator of Forests WLM Tirupathi clearly observing that as per enumeration the estimated quantity of 109 red sandal trees is 59.524 cmts and 09 sandal wood trees is 0.123 cmt. In the very same letter dated 24.01.2022, it is specifically mentioned that DFO, Khammam has stated that in the said National

Highway Project, a total number 355 number of red sandal wood trees and 11 sandal wood tress are available of which, 109 red sandal wood trees and 09 sandal wood trees are proposed to be felled and as per enumeration, the estimated quantity of 109 red sandal wood trees is 59.424 cmts and 09 sandal wood trees is 123 cmts.

g) The District Forest Officer, Khammam had written to the Forest Divisional Officer, Sathupally vide letter dated 27.02.2021 and requested the Forest Divisional Officer, Sathupally to examine the petitioner's application/objections dated 24.02.2021 with a further letter dated 06.03.2021. The District Forest Officer, Khammam again requested a detailed report to take a further necessary action.

h) To the shock of the petitioner without considering the objections of the petitioner, the 3rd respondent issued Award vide Rc.No.G1/2078/2018-Structure dated 27.12.2022 falsely stating that after publication of 3A notification certain objections were received from the concerned land losers and after conducting 3C hearing with the concerned land loser, the said objections were disposed by CALA and issued orders vide Rc.No.G1/2078/2018, dated 21.06.2020 to proceed further.

- i) To the shock of the petitioner the amounts were deposited in the petitioner's account and the petitioner was constrained to issue legal notices, dated 08.03.2022, and 19.07.2022 to respondents 1, 3 and 4.
- j) To the further shock of the petitioner on 18.09.2022, the respondent, land acquisition authority entered into petitioner's land and started causing damage to the valuable trees and the petitioner was constrained to approach the Court and filed W.P.No.36682 of 2022.
- k) The said W.P.No.36682 of 2022 was disposed of on 26.09.2022 directing the respondents not to fell red sandal wood trees and sandal wood trees available on the subject land of the petitioner until valuation of the trees is completed.
- l) Without complying with the orders of this Court dated 2.09.2022 passed in W.P.No.36682 of 2022 the 3rd respondent issued the impugned Award on proceedings dated 27.12.2022 vide Rc.No.G1/2078/2018-Structure without conducting proper valuation of the red sandal wood and sandal wood trees on the petitioner's land measuring Ac.11.27 Gts of agricultural land in Survey Nos.1254/AA, 1263, 1264, 1265 and 1274/AA of Yerraboinapally Village, Kallur Mandal, Khammam District, Telangana.

m) The impugned award proceedings to the shock of the petitioner stated that the red sandal wood enumerated from petitioner's land is only around 17.108 QMTS, which is totally contrary to the quantity mentioned in the letter dated 24.01.2022 of the Prl.Chief Conservator of Forests, Telangana addressed to the Chief Prl. Chief Conservator of Forests, WLN Tirupathi, wherein the quantity of wood was specifically mentioned as 59.547 QMTS.

n) Learned counsel for the petitioner submits that the notice under Section 3(e) of the Act is also not issued to the petitioner nor the objections of the petitioner had been considered, which is mandated under Section 15(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The said proceedings are totally contrary to the procedure laid down as per the provisions of the Act and the Rules in force and therefore, the impugned Award has to be set aside. Therefore, the writ petition is liable to be allowed as prayed for.

11. Learned counsel appearing on behalf of the respondents placing reliance in the counter affidavit filed in I.A.No.3 of 2023 in W.P.No.3901 of 2023 mainly puts forth the following submissions:

12. In response to 3A notification to the land owners who have filed objection petition under Section 3C within the statutory period, the competent authority has issued notice to the objection petitioners and conducted enquiry under Section 3C of the National Highway Act, 1956. Thereafter, the order under Section 3C was passed on 21.07.2020 and 3D was issued on 21.09.2020. Award enquiry notice under Section 3G was issued on 07.11.2020.

13. The petitioner had appeared on 27.11.2020 and thereafter, it cannot be contended that no opportunity was given to the petitioner. The petitioner himself had admitted that the petitioner filed the objections under Section 3C on 27.11.2020 while the orders under Section 3C were passed on 21.07.2020 itself. Further the estimation of the red sandal and sandal wood had been determined by the competent authority, in accordance to law and award proceedings issued vide proceedings dated 27.12.2022 the compensation amount had been released along with other farmers.

14. The bank account details were furnished by the petitioner, the amounts were deposited by the respondents i.e

Rs.33,53,906/- and also structure value compensation had been deposited for an amount of Rs.80,902/-.

15. The orders of the Court dated 26.09.2022 passed in W.P.No.36682 of 2022 had been complied with and the estimation of red sandal wood and sandal wood trees had been determined by the competent authority after due inspection by the Tahsildar, Sathupalli, Kallur, Vemsoor and the concerned Mandal Surveyors, Girdhavars.

16. The petitioner obtained interim orders on 09.02.2023 in the present writ petition and the land acquisition proceedings were stalled and therefore, since the project is time bound, in the larger public interest, the civil work should not be hindered.

17. As the petitioner is not satisfied with the compensation determined by the competent authority he has to avail the provisions under Section 3(g)(5) of the National Highways Act, 1956 to file arbitration appeal before the District Collector, Khammam since he had been appointed as arbitrator vide Central Government notification dated 01.12.2020 and without availing the said provisions, the petitioner filed the present writ petition.

DISCUSSION AND CONCLUSION:

18. A bare perusal of the Award dated 27.12.2022 vide Rc.NO.G1/2078/2018-Structure issued by the 3rd respondent to the extent of its examination in so far as the petitioner is concerned indicates that red sandal wood enumerated from the petitioner is around 17.608 CMT and there is no reference to even the orders of this Court dated 26.09.2022 passed in W.P.No.36682 of 2022 nor any discussion or reference to the objections of the petitioner dated 27.11.2020 and 24.02.2021.

19. The counter affidavit filed on behalf of respondent No.3 states that 3 (d) notice was issued on 29.10.2020 and Award enquiry notice under Section 3(g) were issued on 07.11.2020 and the petitioner appeared on 27.11.2020 and attendance sheet also evidences the said fact. Para 4 of the counter affidavit filed by the 3rd respondent however, indicates that the petitioner filed 3(c) objections on 27.11.2020 whereas the orders under 3© had been passed on 21.07.2020 itself.

20. The Award impugned dated 27.12.2022 passed by the 3rd respondent does not indicate the consideration of the objections of the petitioner dated 27.11.2020 and 24.02.2021 nor the orders of this Court. The impugned award dated 27.12.2022 vide Rc.No.G1/2078/2017-Structure dated 27.01.2022 had been

passed without conducting proper valuation of the red sandal wood and sandal wood trees on the petitioner's agricultural land measuring Ac.11.27 gts. In Survey Nos.1254, 1254/AA, 1263, 1264, 1265, 1274/AA of Yeraboinapally, Kallur Mandal Khammam District without implementing the orders of this Court dated 26.12.2022 passed in W.P.No.36682 of 2022 which had become final.

21. The two specific pleas of the petitioner are that objections of the petitioner dated 27.11.2020 and 24.02.2021 had not been considered and further the notice in writing as required and mandated under Section 3(e) of the Act had not been complied with and not answered in the counter affidavit filed by the 3rd respondent, except stating that the objections of the petitioner were filed on 27.11.2020 and the orders under Section 3(c) had been passed on 21.07.2020 itself and the petitioner appeared on 27.11.2020 upon receipt of award enquiry notice under Section 3(g) issued on 07.11.2020 and even signed in the attendance sheet, this Court opines that admittedly the procedure as mandated under the National Highways Act, 1956 and Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 had not been followed in the present case.

22. The counter affidavit filed in I.A.No.2 of 2023 in the present writ petition by the 5th respondent at para 10 states that the subject project is time bound project which has to be completed within 730 days i.e. 13th September, 2024. Therefore, this Court opines that the objections of the petitioner dated 27.11.2020 and 24.02.2021 need to be considered duly taking into consideration the letter dated 24.01.2022 of the Principal Chief Conservator of Forests and Head of Forest Force, Telangana addressed to the Chief Conservator of Forests, SLM Tirupathi. It is specifically mentioned in the said letter that as per enumeration the estimated quantity of 109 red sandal trees is 59.424 CMT and 9 sandal wood trees is 0.123 CMT and which had been reiterated in the letter of the Forest Range Officer, Tallada addressed to the Forest Divisional Officer, Sathupally Division, Sathupalli dated 03.07.2021 vide Rc.No.16525/2021/Prod-1(i) which clearly indicated the volume CMT as 59.547 whereas the award indicated the same as 17.608 CMTS.

23. This Court opines that Section 3D of the National Highways Act, 1956 very clearly indicates that a notification can be issued under the said provisions only after the objections are disposed of under Section 3(c). The counter affidavit filed by respondent

No. at para 4 very clearly indicates that the order under 3(c) was passed on 27.01.2020 and objections were filed by the petitioner on 27.11.2020. This Court very clearly in its order dated 26.09.2022 passed in W.P.No.36682 of 2022 specifically directed the respondents not to fell red sandal wood trees and sandalwood trees available on the subject land of the petitioner until valuation of the trees is completed. The record only indicates the valuation done in the presence of the petitioner prior to the passing of the Award i.e. on 03.07.2021 which is admittedly prior to the passing of the order of this Court dated 26.09.2022 passed in W.P.No.36682 of 2022 which has become final and prior to passing of the orders dated 09.02.2023 passed in W.P.No.3901 of 2022 and there is no valuation of the trees in the presence of the petitioner and other officers concerned as per the directions of this Court, dated 26.09.2022 passed in W.P.No.36682 of 2022 since the impugned award indicates the quantity of wood of the petitioner decreased from 59.547 QMTs to around 17.608 QMTS, which is totally contrary as per the letter dated 24.01.2022 of the Principal Chief Conservator of Forests and Head of Forest Force, Telangana addressed to the Chief Conservator of Forests, SLM Tirupathi and also the report dated 03.07.2021 of the Forest Range Officer, Tallada addressed

to the Forest Divisional Officer, Sathupalli Division, Sathupally in pursuance to joint survey in respect of red sandal wood trees in Survey Nos. 1254, 1254/AA, 1263, 1264, 1265, 1274/AA at Yerraboinapally Village, Kalluru Mandal, Khammam District, Telangana, conducted with Tahsildar, for Survey Nos. 1254, 1254/AA, 1263, 1264, 1265, 1274/AA at Yerraboinapally Village, Kalluru Mandal, Khammam District, Telangana, Kallur Mandal in the presence of the petitioner on 03.07.2021 which clearly indicates that there are total 355 red sandal wood trees and 11 white sandal wood tress in the subject land belonging to the petitioner.

24. The Apex court in a judgment dated 04.04.2011 reported in (2011) 15 SCC 383 in Syed Maqbool Ali v State of Uttar Pradesh, and another at para 9 observed as under:

"The remedy of a land holder whose land is taken without acquisition is either to file a civil suit for recovery of possession and/or for compensation, or approach the High Court by filing a writ petition if the action can be shown to be arbitrary, irrational, unreasonable, biased, malafide or without the authority of law, and seek a direction that the land should be acquired in a manner known to law. The appellant has chosen to follow the second course. The High Court was not therefore, justified in dismissing the writ

petition on the ground that the remedy was under section 18 of the Act. The order of the High Court, which is virtually a non-speaking order, apparently proceeded on the basis that appellant was seeking increase in compensation for an acquired land. The matter therefore requires to be reconsidered by the High Court, on merits."

25. The Apex Court in the judgment reported in 2013(14) SCC page 737 in Bangalore Development Authority v Vijaya Leasing Limited and others at para 17 observed as under:

"Therefore, while exercising the extraordinary jurisdiction under Article 226 of the Constitution, the learned Single Judge came across the above incongruities in the proceedings of the Hon'ble Minister which resulted in the issuance of de-notification dated 05.10.1999. We fail to note as to how the ultimate order of the learned Single Judge in setting aside such a patent illegality can be held to be beyond the powers vested in the Constitutional Court. The conclusion of this Court in Gujarat Steel Tubes Case (supra) that judicial daring is not daunted when glaring injustice demands even affirmative action and that authorities exercising their powers should not exceed the statutory jurisdiction and correctly administer the law laid down by the statute under which they act are all principles which are to be scrupulously followed and when a transgression of their limits is brought to the

notice of the Court in the course of exercise of its powers under Article 226 of the Constitution, it cannot be held that interference in such an extraordinary situation to set right an illegality was unwarranted.

26. The Apex Court in its judgment reported in 2012 SCC online AP 148 Giridhar Kumar Reddy v Union of India and further in case of R.Natarajan and others v The Union of India and others reported in 2010-5L.W.868 very clearly held that if the statute prescribed certain Act to be done in a particular way, the same has to be done in such particular way, any deviation could not be allowed.

27. This Court opines that affording of opportunity to persons whose lands are proposed for acquisition under the 1956 Act, mandated by Section 3-C(1) is neither a ritual nor an empty formality. It is a salutary provision akin to the provisions of Section 5-A of the Land Acquisition Act, 1894. In Union of India v Mukesh Hans (2004) (8) SCC page 14), Union of India v Krishan Lal Arneja (2004) 8 SCC page 453, Mahenderpal and others v State of Haryana and others, 2009 (14) SCC page 28, Anand Singh v State of Uttar Prasad, (2010) 11 SCC page

242, *Radhy Shyam v State of Uttar Pradesh*, 2011 (5) SCC page 553 and in *Greater Noida Industrial Development Authority v Devendra Kumar and others*, 2011 (12) SCC page 375, the Supreme Court observed that the opportunity of hearing to the land owners to object to acquisition of their lands is a valuable right which cannot be jettisoned for jejune reasons and that such opportunity and compliance with rules of natural justice is a small price which the State should always be prepared to pay before it can deprive any person of his property. These observations of the Apex Court made in the context of the Land Acquisition Act apply to the present Acquisition as well.

28. This Court opines that since hearing of objections to the process of acquisition is a valuable right, an objector is entitled to communication of an order passed by the competent Authority rejecting his objections and the reasons recorded therefor. In the present case, inspite of the orders of this Court dated 29.09.2022 passed in W.P.No.36682 of 2022 and the orders dated 09.02.2023 passed in W.P.No.3901 of 2022, yet there is no valuation of the tress in the presence of the petitioner and other

concerned officers even as on date, even as per the averments made in the counter affidavit filed by the respondents.

29. Taking into consideration the view taken by the Apex Court in the various judgments (referred to and extracted above) this Court opines that in view of the fact that the very mandatory procedure had not been followed in the present writ petition nor the directions of this Court dated 26.09.2022 in W.P.No.36682 of 2022 had been implemented and further duly considering the fact that the counter also does not refer to any valuation of trees as undertaken and done by the respondents pursuant to 26.09.2022 in the presence of the petitioner herein and duly taking into consideration the averments made at Para No.10 of I.A.No.2 of 2023 that the work of National High Way NH-365BG Khammam-Deverapally section Project is a time bound project which has to be completed within 730 days i.e., 13.09.2024 the 2nd respondent is directed to constitute a committee of experts and proceed with revaluation of petitioner's subject 109 Red Sandalwood Trees in Sy.No.1264 and 1265 in petitioner's presence and other concerned officers duly taking into

consideration the report dated 03.07.2021 vide Rc.No.47/2021/T of the Forest Range Officer, Tallada addressed to the Forest Divisional Officer, Sathupally Division, Sathupally and also the letter dated 24.01.2022 of the Principal Chief Conservator of Forests and Head of Forest Force, Telangana, Hyderabad addressed to the Chief Conservator of Forest WLM Thirupathi and also petitioner's objections raised vide representations dated 27.11.2020 and 24.02.2021, within a period of two (02) months from the date of receipt of the copy of the order and pass appropriate reasoned order on the objections of the petitioner dated 27.11.2020 and 24.02.2021 by providing reasonable opportunity of personal hearing to the petitioner in conformity with principles of natural justice in accordance to law and duly communicate the decision to the petitioner.

30. Till the above exercise as stipulated by this Court is initiated and concluded within the time stipulated by this Court the interim orders dated 09.02.2023 passed in the present writ petition directing the respondents not to interfere with the red sandal wood and sandal wood trees on the petitioners land measuring Ac.11.27 gts., of agricultural land in Sy.No.1254,

1254/AA, 1263, 1264, 1265, 1274/AA at Yerra Boinapally Village, Kalluru Mandal, Khammam District, Telangana, shall remain in force.

31. With the above observations, the writ petition is allowed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

MRS. JUSTICE SUREPALLI NANDA

Date: 29.11.2023

Note : L.R. Copy to be marked.

b/o.

kvrn