

[3418]

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE SEVENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 774 OF 2024

Writ Appeal under clause 15 of the Letters Patent-Preferred Against Order Dated 22/02/2024 in WP.No.24150 of 2024 on the file of the High Court.

Between:

1. Nomula Sai Teja Reddy, S/o.Rajeshwar Reddy, Aged about 38 years, occ.Business, R/o.H.No.3-1-671, Vavilalapally, Karimnagar district, Sy.No.164/E,
2. T.Sudhakar, S/oJagannactham, aged about 66 years, Occ.Business, R/o.H.No.1-5-17, Boyawada, Karimnagar District, Sy.No.164
3. P.Ramana Reddy, S/o.Raji Reddy, aged about 60 years, Occ.Business, R/o.H.No.2-27/1, Edulagattupalli Manakonduru mandal, Karimnagar district.
4. J.Ravi Kiran Reddy, S/o.Sanjeeva Reddy, aged about 46 years, occ.Business, R/o.H.No.6-41, Gundeereddipalli Koheda mandal, Karimnagar district, Sy.No.164
5. M.Ramgopal Reddy, S/o.Narsimha Reddy, aged about 55 years, occ.Software Engineer, R/o.Edulagattupalli Manakonduru mandal, Karimnagar district, Sy.No.164
6. V.Surender Reddy, S/o.Bhoopal Reddy, aged about 55 years, Occ.Software engineer, R/o.Edulagattupally, Manakonduru Mandal, Karimnagar district, Sy.No.164
7. D.Surender Reddy, S/o.Chinna Ram Reddy, aged about 55 years, Occ.Business, R/o.Edulagattapally, Manakonduru mandal Karimnagar district, Sy.No.165

...APPELLANTS/PETITIONERS 2 TO 7 & 10

AND

1. The State of Telangana, represented by its Principal Secretary, R and B Department, Secretariat, Secretariat Buildings, Hyderabad - 500 004.j
2. The District Collector, Karimnagar District, Karimnagar
3. National Highways Authorities of India, NH.No.563, D.No.1-8-630, Near LIC Office Balasamudram, Hanamkonda, Warangal District, Telangana

4. The Revenue Divisional Officer, Karimnagar Karimnagar district.
5. The Union of India, represented by its Secretary, Ministry of Road, Transport and Highways New Delhi
6. Japa Akhila Reddy, D/o Baghvan Reddy Aged about 35 years, occ. Business R/o H.No.4-70, Alugunur Thimmapur Mandal Karimnagar District, Sy.No.164/D.
7. G. Nagendra Venkata Ramakrishna, S/o Rammohan Rao Aged about 50 years, Occ. Agriculturist, R/o Plot No. 81 Flat No. 1/11, Silver Oak Residency, Image Hospital Lane Gaffoor Nagar, Shikpet, Hyderabad-500 081 Sy.No. 144
8. Arvind Vyas, S/o Jagannath Vyas, aged about 47 years, Occ. Business, R/o H.No. 5-287, Kaman Road, Karimnagar 505001, Karimnagar district Sy.No. 163
9. G.Soujanya, W/o GnV Ramakrishna aged about 45 years, Occ. House wife R/o Plot no. 81, Flat No. 1/11, Silver Oak Residency Image Hospital Lane, Gafoor Nagar, Shaimpet Hyderabad-500081 Sy.No.130 and 144.

(Respondents 6 to 9 herein are not necessary parties to this Writ appeal)

...RESPONDENTS

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to acquire equal extent of lands required for widening of the existing road from both sides of the road situated at Eedulagattupally village, Manakondur mandal, covered by Survey Nos. Sy.Nos. 130, 144, 163, 164, 164/D, 164/E, 165, 165/A, 168/A and 200/A/2, pending disposal of the above writ appeal

Counsel for the Appellant Nos.2 to 7 & 10: SRI. A PRABHAKAR RAO

**Counsel for the Respondent No.1: SRI M. VIGNESWAR REDDY,
GP FOR ROADS AND BUILDINGS**

**Counsel for the Respondent Nos.2 & 4: SRI N.S. ARJUN KUMAR,
GP FOR LAND ACQUISITION**

**Counsel for the Respondent No.3: SRI A. VENKATESH, SENIOR COUNSEL
FOR M. RAMU, S.C. FOR NHAI**

**Counsel for the Respondent NO.5: SRI GADI PRAVEEN KUMAR
DEPUTY SOLICITOR GENERAL OF INDIA**

Counsel for the Respondent NOs.6 to 9: ---

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

Writ Appeal No.774 of 2024

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. A.Prabhakar Rao, learned counsel for the appellants (petitioners No.2 to 7 and 10).

Mr. M.Vigneswar Reddy, learned Government Pleader for Roads and Buildings Department appears for respondent No.1.

Mr. N.S.Arjun Kumar, learned Government Pleader for Land Acquisition Department appears for respondents No.2 and 4.

Mr. A.Venkatesh, learned Senior Counsel appears for Mr. M.Ramu, learned Standing Counsel for respondent No.3- National Highways Authority of India (NHAI).

2. This intra court appeal arises out of order dated 22.02.2024 by which the writ petition preferred by the appellants *viz.*, W.P.No.24150 of 2021 has been dismissed.



3. For convenience, the parties are referred to as they are arrayed in the writ petition.

4. Facts giving rise to filing of this appeal briefly stated are that the petitioners claim to be the absolute owners of the lands situated in Survey Nos.130, 144, 163, 164, 164/D, 164/E, 165, 165/A, 168/A and 200/A/2 of Edulagattupally Village, Manakondur Mandal, Karimnagar District (hereinafter referred to as 'the subject lands'). Respondent No.3 is constituted under the National Highways Authority of India Act, 1988 (8 of 1988) with an object to develop, maintain and manage the National Highways in the country. The procedure with regard to acquisition of land and matters connected thereto are dealt with under the National Highways Act, 1956 (for short 'the Act'). A policy *viz.*, Bharatmala Pariyojana was framed by the Central Government for four laning of National Highway 563 (for short 'NH-563'). The aforesaid project was entrusted to NHAI. Accordingly, the four laning project between Jagtial-

Karimnagar-Warangal Section of NH-563 was entrusted to NHAI for implementation and maintenance. A notification under Section 3A of the Act was issued on 05.06.2020 for acquisition of land for formation of four laning of NH-563 between 26.3 kms to 83.3 kms of Jagtiyal-Karimnagar-Warangal Section in Karimnagar, which includes lands in Edulagattupally Village. The aforesaid notification was published in two daily newspapers *viz.*, Mana Telangana (Telugu) and Hans India (English) on 13.06.2020. Thereupon, petitioners 2 to 9 and 11 submitted a representation on 11.01.2021.

5. Thereafter, a notification was issued under Section 3A(1) of the Act on 28.01.2021, declaring the intention of the Ministry of Road Transport and Highways to acquire the notified lands. Thereafter, a notification under Section 3D(1) & (2) of the Act was issued on 29.01.2021, which was published in the two daily newspapers *viz.*, Mana Telangana

(Telugu) and Hans India (English) dated 03.02.2021.

Thereafter, a notification under Section 3G of the Act was published on 28.02.2021. Petitioners 3 to 5, thereupon, submitted a representation to the District Collector, Karimnagar, by which objections to acquisition of land were submitted.

6. Thereafter, another notification under Section 3(D)(1) & (2) of the Act was issued on 08.04.2021.

7. Petitioners 3 to 5 again submitted a representation to the District Collector, Karimnagar on 19.04.2021.

8. Thereafter, petitioners challenged the validity of the notification dated 29.01.2021 in W.P.No.24150 of 2021, *inter alia* on the ground that instead of land measuring 50 feet, 65 feet is being acquired and the land should be acquired on both sides of the proposed road whereas the same is being acquired only on one side of the road. Learned Single Judge,

by the impugned order dated 22.02.2024, dismissed the writ petition. Hence, this intra court appeal by petitioners No.2 to 7 and 10.

9. Learned counsel for petitioners No.2 to 7 and 10 submitted that on each side of the proposed four lane road, 50 feet of land is required to be acquired whereas the land to an extent of 65 feet in width is being acquired, that too, only on one side of the road. It is submitted that there is no justification for acquisition of land only on one side of the road and, that too, to the extent of 65 feet. It is further submitted that the power of acquisition is being exercised with an ulterior motive for the benefit of some persons. Attention of this Court has also been invited to the notification dated 31.10.2017, which was published in the newspaper on 16.11.2017 in support of the contention that the land on both sides was proposed to be acquired.

10. On the other hand, learned Senior Counsel for respondent No.3 has submitted that the Courts are not at all equipped to decide on the viability or feasibility of a particular project and whether a particular alignment would sub-serve the public interest. It is further submitted that the alignment of the road has been decided on the basis of the advice given to the authority by an expert committee. It is also pointed out that no allegation of *mala fides* has been made against the officers of respondent No.3. It is contended that no case for interference in exercise of extraordinary jurisdiction of this Court is made out, more particularly, because the project deals with construction of new highways and widening and development of existing highways, which are vital for development of infrastructure in the country and in case an interference is made, the completion of the project would get delayed, which in turn, will effect public exchequer. In support of his submissions, learned Senior Counsel has placed reliance on the decisions of the Supreme Court in **Union of India v.**

Kushala Shetty¹, Ramniklal N. Bhutta v. State of Maharashtra² and Hyderabad Urban Development Authority v. S.B.Kirloskar³.

11. We have considered the rival submissions made on both sides and have perused the record. The Supreme Court in **Kushala Shetty (supra)** held as under:

“25. The plea of the respondents that alignment of the proposed widening of the national highways was manipulated to suit the vested interests sounds attractive but lacks substance and merits rejection because except making a bald assertion, the respondents have neither given particulars of the persons sought to be favoured nor placed any material to prima facie prove that the execution of the project of widening the national highways is actuated by mala fides and, in the absence of proper pleadings and material, neither the High Court could nor this Court can make a roving enquiry to fish out some material and draw a dubious conclusion that the decision

¹ 2011(12) SCC 69

² 1997 (1) SCC 134

³ 2020 (15) SCC 449

and actions of the appellants are tainted by mala fides.

28. Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and maintenance of national highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for the development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway development and maintenance. NHAI prepares and implements projects relating to development and maintenance of national highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited. The court can

nullify the acquisition of land and, in the rarest of rare cases, the particular project, if it is found to be ex facie contrary to the mandate of law or tainted due to mala fides. In the case in hand, neither has any violation of mandate of the 1956 Act been established nor has the charge of malice in fact been proved. Therefore, the order under challenge cannot be sustained.”

12. In view of aforesaid enunciation of law, it is evident that the projects involving construction of new highways and widening and development of existing highways are vital for development of infrastructure of the country. The projects have been entrusted to the experts in the field of highways and it comprises of persons having vast knowledge and expertise in the field of highway development and maintenance. The NHAI is implementing the project relating to development and maintenance after thorough study by experts.

13. It is pertinent to note that in pursuance of the notification issued under the Act, award has already been

passed on 10.05.2022 and petitioners No.8 and 11 in W.P.No.24150 of 2021 have even received the compensation.

The project is virtually complete except for a small stretch.

14. For the aforementioned reasons, we agree with the conclusion arrived at by the learned Single Judge.

15. In the result, the Writ Appeal fails and is hereby dismissed. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

Sd/- I. NAGA LAKSHMI
DEPUTY REGISTRAR

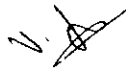
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SECTION OFFICER

To,

1. One CC to SRI A. PRABHAKAR RAO, Advocate [OPUC]
2. One CC to SRI M. RAMU, S.C. for NHAI [OPUC]
3. One CC to SRI GADI PRAVEEN KUMAR, Deputy Solicitor General of India [OPUC]
4. Two CCs to GP for Roads and Buildings, High Court for the State of Telangana at Hyderabad. [OUT]
5. Two CCs to GP for Land Acquisition, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies

KKS
MP



HIGH COURT

DATED:07/08/2024

JUDGMENT

WA.No.774 of 2024



**DISMISSING THE WRIT APPEAL
WITHOUT COSTS**

10 NLV
26/9/24