

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

TUESDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

WRIT PETITION NO: 11063 OF 2005

Between:

1. D.Amarnath,, s/o D.V.Subba Rao, r/o 607, Emerald, Amrutha Hills, Panjagutta, Hyderabad.
2. D.Manasa,, d/o D.Amarnath, r/o 607, Emerald, Amrutha Hills, Panjagutta, Hyderabad.
3. D.Dharmateja,, s/o D.Amarnath, r/o 607, Emerald, Amrutha Hills, Panjagutta, Hyderabad.
4. P.Dhanunjaya Rao,, s/o P.Bhadravatar, r/o F.4 Plot No.24, Road No.2, Jubilee Hills, Hyderabad.
5. N.Venkataratnam,, s/o N.Janardhan Rao, r/o Plot No.136/1 Road No.10, Jubilee Hills, Hyderabad.
6. S.Aruna Kumar,, s/o Bhavanarayana, r/o Flat no.6, Sreeya Apartments, Ameerpet, Hyderabad.
7. M.Subba Rao,, s/o Venkateswara Rao, r/o 8-2-269/N/24, Road No.2, Banjarahills, Hyderabad.
8. M.Ayyana Rao,, s/o Venkateswara Rao, r/o 8-2-269/N/24, Road No.2, Banjara Hills, Hyderabad.
9. M.Srinivasa Rao,, s/o Venkateswara Rao, r/o 8-2-269/N/24, Road No.2, Banjara Hills, Hyderabad.

...PETITIONERS

AND

1. **State of Telangana**, rep., by Secretary,, Revenue and Land Acquisition Department, Secretariat, Hyderabad.
2. District Collector, Ranga Reddy District, at Hyderabad.
3. Special Deputy Collector (Land Acquisition Projects),, Shamshabad, Ranga Reddy District at Lakdikapul, Hyderabad.
4. **State of Telangana** Industrial Infrastructure Corporation rep., by its, Chairman, Hyderabad.
(CT is amended as per Court order dated 20.08.2024 vide I.A.No.2 of 2015 (WPMP NO.5783 of 2015) in W.P.No.11063 of 2005)
5. Sri L. Prabhakar Reddy S/o. L. Chinna Gangi Reddy, R/o. 5A, Gayathri Nest, Cyber Hills, Guttala Begumpet, Serilingampally Mandal, Ranga Reddy District.
6. Smt. B. Shoba Reddy W/o. B. Srinivas Reddy, R/o. Sanjeeva Nagar, Rayachoti, Kadapa, Andhra Pradesh,
7. Smt. V. Uma Reddy W/o. V. Rami Reddy. R/o. E-2, Parmeswara Apts, Anand Nagar, Khairatabad, Hyderabad.
8. Sri R. Anjaneyulu S/o. R. Harischandrudu, Businees, R/o.H.No.2-1-57 mn/154, Mahakalinagar, Shanshiguda Village, Kukatpally
9. Sri G. Ashok Kumar S/o. G. Komuraiah, R/o.H.No.3-286, Plot No.397, Adityanagar, Near community Hall, Hafeezpet, Serilingampally Ranga Reddy District.

10. Sri K. Raj Kumar S/o. K. Illaiah, R/o.H.No.1-12, Pulukurthy Village, Atmakur Mandal, Warangal District.
11. Sri V. Prasad Reddy S/o. Late V. Rami Reddy, R/o.H.No.38-54/1, Vallabnagar, Wanaparthy Town & District, Telangana.
12. Ms. Kavya Barli D/o. Sri Vijay Kumar Barli, R/o.H.No.6-3-883/1, Flat No. 2D, Usha Mansion. PUnjagutta, Hyderabad.
13. Smt. Chowdary Vanaja W/o. Vijay Kumar Barli, R/o.H.No.6-3-883/1, Flat No.2D, Usha Mansion. Punjagutta, Hyderabad.
14. Sri Syed Ali S/o., S. Rahim R/o.Flat No.504, H.No.10-4-771/8, Rama Krishna Arcade, Sri Ram Nagar Colony, Masab Tank, Hyderabad
15. Sri Syed Masoos S/o. S. Rahim, R/o.Flat No.504, H.No.10-4-771/8, Rama Krishna Arcade, Sri Ram Nagar Colony, Masab Tank, Hyderabad
16. Sri Jogesh Kekerja S/o. Sri Tirathdas Kukreja, R/o.,1-100-29-9-2, Gopanpally, Serilingampally, Ranga Reddy District.
(Respondents 5 to 16 are impleaded as per Court order dated 20.08.2024 Vide I.A.No.2 of 2015 (WPMP NO.5783 of 2015) in W.P.No.11063 of 2005)

...RESPONDENTS

WPMP NO.5783 of 2015 :

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to quash the notification No.G1/6979/2004 dated 03.03.2005 issued by the 2nd respondent herein as illegal, arbitrary, and unjust by issuing an appropriate writ, order or direction more particularly in the nature of mandamus or any other appropriate writ.

(prayer is amended as per Court Order dated 20.08.2024 in I.A.No.4 of 2015 (WPMP No.5787 of 2015) in W.P.No.11063 of 2005)

I.A. NO: 1 OF 2005(WPMP. NO: 14216 OF 2005)

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 grant stay of all further proceedings pursuant to the land acquisition Notification issued by the 2nd respondent in proceedings No.G1/6986/2004 dated 03-03-2005 relating to the lands in Sy.Nos.274, 278/A, 275 and 269 of Gopannapally Village, Serilingampally Mandal, Ranga Reddy District pending disposal of the writ petition.

**Counsel for the Petitioners: SRI D. ANIKETH REDDY, COUNSEL FOR
SRI M. V. S. SURESH KUMAR**

**Counsel for Respondent Nos. 1 to 3: SRI MOHD. IMRAN KHAN,
ADDITIONAL ADVOCATE GENERAL**

**Counsel for Respondent No. 4: SRI L. PRABHAKAR REDDY
SC FOR TSIIC**

Counsel for Respondent Nos. 5 to 16: SRI P. KRISHNA MOHAN

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION No.11063 of 2005

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

Mr. D.Aniketh Reddy, learned counsel representing Mr. M.V.S.Suresh Kumar, learned counsel for the petitioners.

Mr. Mohd. Imran Khan, learned Additional Advocate General for the State.

2. In this writ petition, the petitioners *inter alia* have sought for a declaration that the action of the respondents for acquisition of the lands of the petitioners for establishing Information Technology Park for the benefit of respondent No.4 as arbitrary, illegal and *mala fide* and to forbear the respondent authorities from proceeding with the acquisition of lands.

3. Facts giving rise to filing of this petition briefly stated are that the petitioners are owners of land bearing Survey Nos.274, 278/A, 275 and 269 of Gopannapally

::2::

Village, Serlingampalli Mandal, Ranga Reddy District. The aforesaid land along with other lands was required by respondent No.4 for purposes of establishment of Information Technology Park and allied projects.

4. Thereupon, the notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 03.03.2005 which was published in the Gazette on 04.03.2005. The notification dated 03.03.2005 issued under Section 4(1) of the Act was received in the Office of the Tahsildar on 18.03.2005 for issuing public notice. The Land Acquisition Officer on 10.03.2005 issued a notice in Form 3 under Section 5A of the Act by which the objections were invited upto 04.04.2005.

5. The notices for enquiry under Section 5A of the Act were served on the petitioners on 28.03.2005 pursuant to which the petitioners have submitted objections on 04.04.2005. The Special Deputy Collector thereafter submitted a report on 08.04.2005 and a draft declaration under Section 6 of the Act was issued on 16.04.2005 which was published in the Gazette on 16.04.2005. Thereupon, the

petitioners have filed this Writ Petition seeking the reliefs as aforesaid.

6. Learned counsel for the petitioners submitted that Section 4(1) of the Act requires the appropriate Government to issue a notification under Section 4(1) of the Act and to publish the same in the Gazette. In addition, the appropriate Government is also under obligation to get the notification published in two daily newspapers having circulation in the locality and is required to give public notice of substance of the notification at convenient places. It is further submitted that until and unless the action under Section 4(1) of the Act is complete, the provisions of Section 4(2) of the Act cannot be invoked. It is submitted that in the instant case, even though the notification under Section 4(1) of the Act was issued on 03.03.2005, the same was published in the Gazette on 04.03.2005, prior to completion of the steps required to be taken under Section 4(1) of the Act. A survey was already conducted on 18.02.2005 even prior to publication of notice under Section 4(1) of the Act. It is also submitted that the notification under Section 4(1) of the Act was received for

publication in the Office of the Tahsildar on 18.03.2005 and therefore, the petitioners ought to have been given 30 days time from 18.03.2005 to submit their objections. It is therefore contended that the notification under Section 4(1), 4(2) as well as Section 5A and draft declaration under Section 6 of the Act are liable to be quashed. In support of aforesaid submissions reliance has been placed on the decisions of Supreme Court in **Khub Chand and others v. State of Rajasthan**¹ and **Narendrajit Singh and others v. State of U.P. and others**².

7. On the other hand, learned Additional Advocate General submitted that the controversy involved in this petition is squarely covered by a common order dated 13.02.2004 passed in Writ Petition No.8293 of 2005 and batch and order dated 07.02.2004 passed in Writ Petition No.10163 of 2005.

8. It is further submitted that the respondents shall carry out fresh survey and be granted liberty to proceed in accordance with the provisions of the Act.

¹ AIR 1967 SC 1074

² AIR 1971 SC 306

9. We have considered the rival submissions and have perused the record. Section 4 of the Act reads as under:

“4. Publication of preliminary notification and powers of officers thereupon :- (1) Whenever it appears to the appropriate Government or the District Collector, that land in any locality is needed or is likely to be needed for any public purpose or for a company a notification to that effect shall be published in the Official Gazette or (The District Gazette) (and in two daily newspapers circulated in that locality of which at least one shall be in the regional language, and the Collector shall, within forty days from the date of publication of such notification cause public notice of the substance of such notification to be given at convenient place in the said locality, the last of the dates of such publication and giving of such public notice being of the dates of such publication and giving of such public notice being hereinafter referred to as the date of the publication of the notification.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government or the District Collector in this behalf, and for his servants and workmen,

to enter upon and survey and take levels of any land in such locality; to dig or bore into the sub-soil;

←

::6::

to do all other acts necessary to ascertain whether the land is adoptable for such purpose:

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any proposed to be made thereupon:

to make such levels, boundaries and line by placing marks and cutting trenches, and

Where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so."

10. Thus, from perusal of Section 4 of the Act, it requires the following steps to be taken.

- 1) a notification under Section 4(1) of the Act has to be issued and the same has to be published in the Official Gazette.

2) the notification under Section 4(1) of the Act is required to be published in two daily newspapers having circulation in the locality of which at least one shall be in regional language.

3) the public notice of substance of the notification should be given at convenient place in the locality.

11. On completion of the aforesaid steps mentioned in the notification under Section 4(1) of the Act, it shall be lawful for any Officer either in generally or specially authorized by the Government and for servants and workmen to enter upon the land in such locality and carry on the survey.

12. In the instant case, the notification under Section 4(1) of the Act was issued on 03.03.2005 which was published in the Gazette on 04.03.2005 and the same was sent to the Office of the Tahsildar for publication in the locality on 18.03.2005. However, even before the requisite

steps under Section 4(1) of the Act were taken, the survey was conducted on 18.02.2005 i.e., prior to issuance of the notification under Section 4(1) of the Act. It is also noteworthy that the respondents are required to give a notice of 30 days time to the petitioners for filing objections and the period of thirty days in the instant case would commence from 18.03 2005 when the notification was sent for publication in the locality. However, the time for filing objections had been given only till 04.04.2005.

13. For the aforementioned reasons, the action of the respondents in conducting survey under Section 4(2) of the Act and preparing the Survey Report and conducting enquiry under Section 5A of the Act and publication of draft declaration under Section 6 of the Act cannot be sustained in the eye of law. Accordingly, the same are quashed. However, liberty is reserved to the respondents to proceed from the stage of Section 4(1) of the Act afresh, if so advised.

14. In the result, the Writ Petition is disposed of.

15. Before parting, it is relevant to take note of the decision of Supreme Court in **Khub Chand** (supra). Ratio of

the said decision is that requirement of public notice at the convenient places is mandatory and non-compliance with the aforesaid procedural requirement is fatal to the land acquisition proceeding. The aforesaid issue is not involved in the instant Writ Petition. Therefore, the same has no assistance to the petitioners. We do not find any merit in the contention that because of the procedural infirmity in proceeding further under Section 4(2) of the Act and taking subsequent action under Section 5A of the Act and issuing draft declaration under Section 6 of the Act, the notification under Section 4(1) itself should be quashed.

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

SD/-N. SRIHARI
ASSISTANT REGISTRAR

//TRUE COPY//

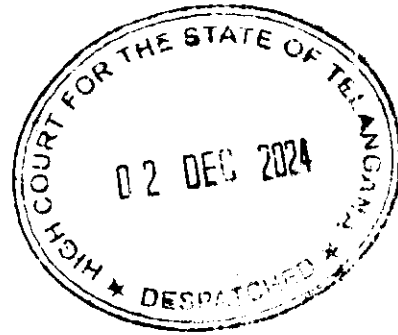
SECTION OFFICER

- To,
1. The Secretary,, Revenue and Land Acquisition Department, State of Telangana, Secretariat, Hyderabad.
 2. The District Collector, Ranga Reddy District, at Hyderabad.
 3. The Special Deputy Collector (Land Acquisition Projects),, Shamshabad, Ranga Reddy District at Lakdikapul, Hyderabad.
 4. The Chairman, Telangana State Industrial Infrastructure Corporation rep., by its, Chairman, Hyderabad.
 5. One CC to SRI M V S SURESH KUMAR Advocate [OPUC]
 6. Two CCs to the Advocate General, High Court for the State of Telangana. [OUT]
 7. One CC to Sri L Prabhakar Reddy SC FOR TSIIIC Advocate [OPUC]
 8. One CC to Sri P. Krishna Mohan, Advocate(OPUC)
 9. Two CD Copies

MBC
GJP

HIGH COURT

DATED: 20/08/2024



ORDER

WP.No.11063 of 2005

DISPOSING OF WRIT PETITION

WITHOUT COSTS