

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

+ WRIT APPEAL NO.859/2025

% Dated: 26.09.2025

Devabhaktuni Rama Lingeswara Rao and 7 others
.....Petitioners

And

The Union of India and 3 others Respondents

! Counsel for the Appellants : Sri L.T.Chandrasekhara Rao

^ Counsel for the 2nd Respondent : Sri Akhil Krishnan, learned
counsel representing
Sri S.S.Varma, Standing Counsel

^Learned counsel for the 3rd respondent: Ms.Kotharu Vijayeswari

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? Cases referred :

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
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WRIT APPEAL NO.859 of 2025

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.....Respondents

DATE OF ORDER PRONOUNCED: 26.09.2025

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|--|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals. | Yes/No |
| 3. Whether Their Lordship wishes
to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

APHC010387262025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

FRIDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT APPEAL NO: 859 OF 2025

Writ Appeal under clause 15 of the Letters Patent of Writ Appeal against the order dated 09-05-2025 passed in WP No. 10641 of 2022

Between:

1. DEVABHAKTUNI RAMA LINGESWARA RAO, S/o Late Sambaiah, Aged about 77 years, Occ. Retd. Employee, R/o 3-8-169, Road No.5, Chandrapuri Colony, L.B. Nagar, Hyderabad - 500074.
2. Devabhaktuni Rama Koteswara Rao, S/o Late Sambaiah, Aged about 67 years, Occ. Pvt. Employee, R/o 3-8-115, Road No.5, Chandrapuri Colony, L.B. Nagar, Hyderabad - 500074.
3. Devabhaktuni Srinivasa Rao, S/o Late Devabhaktuni Shankara Rao, Aged about 51 years, Occ. Agriculture, R/o Flat No.503, Green Leaves Apartments, Hariharapuram Colony, Vanasthalipuram, Hyderabad - 500070.
4. Ravella Raghunath Babu,, S/o Ravella Raja Gopala Rao, Aged about 68 years, Occ. Agriculture, R/o Potluri Residency, Flat No.204,

Opp. Police Station, Kamaiah Thopu, Vijayawada - 520007, NTR Distrit. A.P.

5. Korrapati Kanyakumari, W/o Late Korrapati Srinivasa Rao, Aged about 83 years, Occ.Household, R/o 8-72, Kaptanupalem, Pedaprolu Village, Mopidevi Mandal, Krishna District. A.P.

6. Sabbineni Bose,, S/o Venkata Ramaiah, Aged about 67 years, Occ. Agriculture, R/o D.No.3-52, Dr. Suri Bazar, Challapalli Village and Mandal, Krishna District. A.P.

7. Ravi Babu Rao,, S/o Venkata Subbaiah, Aged about 67 years, Occ. Agriculture, C/o Ravi Vasantha Rao, Venkatapuram Village, Mopidevi Mandal, Krishna District.A.P.

8. Mavuluri Krishna Kumari,, W/o Late Mavuluri Yedukondalu, Aged about 52 years, Occ. Household, R/o D.No.9-71, Challapalli Village and Mandal, Krishna District. A.P.

...Petitioners

AND

1. THE UNION OF INDIA, Rep. by its Secretary, Road, Transport and Highways, New Delhi.

2. National Highway Authority of India Ltd, Rep. by its Project Director, NHDP IV PIV, Machilipatnam, Krishna District, A.P.

3. The Competent Authority LA and Joint Collector, Krishna District, Office at Machilipatnam. A.P.

4. The Arbitrator and District Collector, Krishna District, at Machilipatnam. A.P.

...Respondents

Counsel for the Petitioners: CHANDRASEKHARA RAO L T

Counsel for the Respondents: GP FOR REVENUE Counsel for the Respondents:GP FOR LAND ACQUISITION Counsel for the Respondents:S S VARMA (SC FOR NHAI)

The Court made the following :

JUDGMENT: *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri L.T.Chandrasekhara Rao, learned counsel for the appellants, Sri Akhil Krishnan, learned counsel representing Sri S.S.Varma, learned Standing Counsel for the 2nd respondent-National Highway Authority of India Ltd. (NHAI) and Ms.Kotharu Vijayeswari, learned counsel for the 3rd respondent.

2. The writ appellants are the writ petitioners in W.P.No.10641 of 2022. The writ petition was filed for issuance of a writ, order or direction in the nature of *Mandamus, inter alia* for grant of compensation for the land acquired as also for the structures, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(in short 'the Act, 2013) raising the grievance that the amount of compensation determined was on the lower side and not according to law.

3. The National Highway Authority of India Ltd(NHAI), the 2nd respondent, issued a Notification dated 13.01.2016 under Section 3A of the National Highways Act, 1956 (in short 'the Act, 1956), to

acquire the petitioners' lands together with the constructions, for the purpose of widening of National Highway No.216, passing through Pedaprolu Village of Mopidevi Mandal, Krishna District. Notification under Section 3D was published on 26.08.2016, to which the petitioners filed the objections, which were, however, rejected by the competent authority vide proceedings in Rc.G1.2488/2015 dated 28.04.2016. Thereafter, a notice dated 14.12.2016 was issued under Section 3G(3) of the Act, 1956, for determination of the amount as compensation and the award was passed thereafter, on 31.03.2017 by the competent authority. Not being satisfied with the award, the petitioners approached the 4th respondent, the Arbitrator and the District Collector, Krishna District (Land Acquisition and Joint Collector) under Section 3G(5) of the Act, 1956. The 4th respondent, the Arbitrator, vide the orders dated 11.01.2019 and 30.11.2020 dismissed the arbitration petitions for enhancement of the compensation.

4. Challenging the aforesaid orders, the Writ Petition No.10641 of 2022 was filed by the writ appellants.

5. The learned Single Judge dismissed the writ petition, not being inclined to entertain the same but observed that the petitioners were at liberty to take recourse of law as per Section 3G of the Act,

1956 by filing a petition under Section 34 of the Arbitration and Conciliation Act, 1996.

6. The learned Single Judge observed that the grievance of the petitioners with respect to the determination of compensation as per their submission on the lower side treating the subject lands and agricultural lands instead of non-agricultural lands revolved around the classification of the subject lands and being disputed questions of fact, to determine such a question, exercise could not be undertaken under Article 226 of the Constitution of India and more particularly, when the petitioners had the statutory efficacious alternative remedy. The learned Single Judge further observed that it was not a case falling with any of the exceptions to the rule of exhaustion of alternative remedy.

7. Being aggrieved from the judgment of the learned Single Judge, the petitioners have approached in the present writ appeal.

8. Learned counsel for the appellants submitted that there was violation of the principles of natural justice. The Arbitrator did not apply the correct principles for determination of the compensation and illegally rejected the arbitration petitions for enhancement of the compensation. There was also violation of the petitioners' fundamental right under Article 14 of the Constitution of India, as the

writ appellants have right to get fair compensation under the Act, 2013.

9. Learned counsel for the writ appellants further submitted that the remedy under the Arbitration and Conciliation Act, 1996, under Section 34, is not equally efficacious and that Section 34 will not apply, as in his submission, the National Highways Act, 1956 is a Special Act and the Special Act overrides the General Act. In his submission, the Arbitration and Conciliation Act is a General Act.

10. Learned Standing Counsel for the 2nd respondent submitted that the petitioners/appellants have statutory remedy under Section 34 of the Act, 1996 and in view thereof the Writ Petition has rightly been dismissed granting liberty to avail the statutory remedy.

11. We have considered the aforesaid submissions and perused the material on record.

12. The submission of the learned counsel for the petitioners that there is violation of the principles of natural justice as also Article 14 of the Constitution of India, could not be substantiated as to how there was violation of the principles of natural justice in determination of the compensation by the Arbitrator under Section 3G(5) of the Act, 1956. The arbitration petition was filed by the petitioners themselves. A perusal of the award of the Arbitrator shows that the

contentions raised by the writ petitioners before the Arbitrator finds mention and consideration. It has not been argued before us nor there is any pleading in the writ appeal that such arbitration award was without affording any opportunity of hearing or behind their back. It could not be demonstrated before us as to how there was violation of the principles of natural justice in passing the award or violation of right of equality under Article 14 of the Constitution of India.

13. The only submission raised before us on the above point was that the correct principles of determination have not been applied. Without observing anything on that aspect, whether the Arbitrator's award determines the compensation by applying the correct principles or not, we are of the view that such a question can very well be addressed, if the petitioners approach the forum providing for the statutory alternative remedy under the Act, 1996.

14. We cannot accept the submission of the petitioners' counsel that there is violation of the fundamental right of the petitioners under Article 14 of the Constitution of India, as the determination of the compensation by the competent authority as also by the Arbitrator was incorrect. The right to get compensation for the acquired land is no doubt a constitutional right but is not a fundamental right. The

determination of compensation by the statutory authority may be correct or sometimes it may not be proper or correct but in such cases of grievance, the petitioners have to initially approach the statutory forum provided by the statute itself and on that count, it cannot be termed that the award of the competent authority or the Arbitrator suffered from arbitrariness.

15. The next submission of the petitioner's counsel is that Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, is a Special Act for determination of the compensation and therefore, the Arbitration and Conciliation Act, which is a General Act stands excluded.

16. We shall refer to the provisions of Section 3G of the Act, 1956 and Sections 34 and 37 of the Act, 1996.

17. Section 3G of the National Highways Act, 1956 reads as under:

3G. Determination of amount payable as compensation.—

(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.

(3) *Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.*

(4) *Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.*

(5) *If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government—*

(6) *Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.*

(7) *The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—*

(a) *the market value of the land on the date of publication of the notification under section 3A;*

(b) *the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;*

(c) *the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;*

(d) *if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”*

18. Sections 34 and 37 of the Arbitration and Conciliation Act, 1996 read as under:

34. Application for setting aside arbitral award.—(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if—

(a) the party making the application 1 [establishes on the basis of the record of the arbitral tribunal that]—

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that—

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

[Explanation 1.—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

- (i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or*
- (ii) it is in contravention with the fundamental policy of Indian law; or*
- (iii) it is in conflict with the most basic notions of morality or justice. [Explanation 2.—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.]*

[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.]

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

[(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.]

(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one

year from the date on which the notice referred to in sub-section (5) is served upon the other party.

37. Appealable orders.—(1) [Notwithstanding anything contained in any other law for the time being in force, an appeal] shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:—

[(a) refusing to refer the parties to arbitration under section 8;

(b) granting or refusing to grant any measure under section 9;

(c) setting aside or refusing to set aside an arbitral award under section 34.]

(2) Appeal shall also lie to a court from an order of the arbitral tribunal—

(a) accepting the plea referred to in sub-section (2) or sub-section (3) of section 16; or

(b) granting or refusing to grant an interim measure under section 17.

(3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or takeaway any right to appeal to the Supreme Court.”

19. Section 3G of the National Highways Act, 1956 clearly provides that a person aggrieved from the determination of the amount of compensation by an award of the competent authority under sub-section (1) or (2) may make an application for determination of the compensation by the Arbitrator to be appointed by the Central Government. Once the Arbitrator passes the award the aggrieved party has the remedy to approach under the

Arbitration and Conciliation Act, 1996, which has been made applicable by a specific provision under sub-section (6) of Section 3G of the National Highways Act, 1956. Section 3G(6) clearly provides that 'subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act'. Once the provisions of the Arbitration and Conciliation Act, 1996 have been made applicable to every arbitration under the National Highways Act, 1956, there would certainly be remedy as provided under the Act, 1996 against the award of the arbitrator passed under sub-section (5) of Section 3G. The remedy is under Section 34 of the Act, 1996 to challenge the award and then, in case of further grievance to prefer appeal under Section 37 of the Act, 1996.

20. The determination of the compensation may be by following the principles laid down under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 or/and in terms of Section 3G(7) of the Act, 1956 itself, but that does not mean that the applicability of the Arbitration and Conciliation Act, 1996 on that ground stands excluded on the principle as argued i.e. 'special' excludes the 'general'.

21. It is well settled that between a 'special law' and 'general law', the 'special law' always prevails. However, it would be so, in the event of a conflict between a 'special law' and 'general law'. We are of the view that firstly, there is no question of the National Highways Act, 1956 and the Arbitration and Conciliation Act, 1996, one being the special and the other being general and secondly, there is no conflict. The reason is that once the Arbitration and Conciliation Act, 1996 has been made applicable to the award of the arbitrator passed under the National Highways Act, 1956, by specific provision, the question of the 'special' excludes 'general' does not arise at all. The submission advanced to that effect is misconceived.

22. We are further of the view that the learned Single Judge was right in observing that the writ petition involved disputed questions of fact with respect to the nature of the acquired land whether agricultural or non-agricultural. We are of the view further that determination of such disputed questions of fact requires evidence for and ordinarily such determination of disputed questions of fact, is not gone into by this Court in the exercise of the writ jurisdiction under Article 226 of the Constitution of India. If the learned Single Judge was not inclined to entertain the writ petition observing that the petitioners' case did not fall within the well recognized exceptions to the rule of exhaustion of alternative remedy and there was

statutory alternative remedy, we do not find it a fit case for interference with the judgment of the learned Single Judge.

23. We do not find any illegality with the judgment of the learned Single Judge.

24. The Writ Appeal is dismissed. No order as to costs.

25. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any pending, shall also stand closed.

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

Date: 26.09.2025

Note:

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

W.A.NO: 859/2025

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