

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**
*** THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR**
CHINTALAPUDI

WRIT APPEAL NO: 799/2025

% 21.07.2026

The Project Director, National Highways
Authority of India Project Implementation
Unit

.....petitioner

And:

\$ Kandukuri Rama & 9 others

.... respondents

!Counsel for the petitioner : Ms. Sodum Anvesha, learned
counsel representing M/s.
Chaudhary & Chaudhary
Associates and Solicitors for the
appellant

^Counsel for the respondents : Sri Narasimha Rao Gudiseva,
learned counsel representing
Sri B.S. Mani Kumar, learned
Government Pleader for Land
Acquisition appearing for
respondent Nos.1 & 2.

<Gist:

>Head Note:

? Cases referred:

1. 2024 SCC OnLine SC 3814
2. decided on 01.04.2026 in W.P. (PIL) No.20 of 2026
3. Writ-C No.26529 of 2025, decided on 15.10.2025
4. R/Special Civil Application No.16804 of 2018

5. 2004 (3) ALT 78 (D.B.)
6. W.P.No.226493 of 2020 (LA-RES)
7. 2004 (4) ALR 430 (S.B.)
8. (1998) 8 SCC 1
9. (2014) 1 SCC 603
10. 2025 SCC OnLine SC 2510

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

WRIT APPEAL NO: 799/2025**Between:**

The Project Director, National Highways
 Authority of India Project Implementation
 Unit

..... PETITIONER

AND

Kandukuri Rama & 9 others

....RESPONDENTS

DATE OF JUDGMENT RESERVED :**DATE OF JUDGMENT PRONOUNCED : 21.07.2026****DATE OF JUDGMENT UPLOADED : 12.08.2026****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE RAVI NATH TILHARI****&****THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

- | | |
|---|--------|
| 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 Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI,J

APHC010256912025



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

WEDNESDAY, THE 21st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

WRIT APPEAL NO: 799 OF 2025

Between:

1. The Project Director, National Highways Authority of India, Project Implementation Unit - Visakhapatnam, having office at NHAI Enclave, NH-16, Near VIMS Hospital, Hanumanthavaka Junction Visakhapatnam, Andhra Pradesh - 530040

...Petitioner

AND

1. Kandukuri Rama, W/o Janardhana Rao, Hindu, Aged 40 years, R/o D.No.7-10-57/1, Old Gajuwaka, Visakhapatnam, Visakhapatnam District

2. Smt Nirmala Ben Patel, W/o Gopal Patel, Hindu, Aged 42 years R/o D.No.26-23-13/2, Chaitanya Nagar, Gajuwaka, Visakhapatnam, Visakhapatnam District

3. The State Of Andhra Pradesh, Represented by its Principal Secretary, Department of Revenue, Land Acquisition, Secretariat, Velagapudi, Amaravathi, A.P.
4. The Joint Collector cum Competent Authority Land Acquisition GALA, NH-16 (Anandapuram to Anakapalli - NH-38), Visakhapatnam, Visakhapatnam District.
5. The Special Deputy Collector Land Acquisition, NH-16 (Anandapuram to Anakapalli - NH-38), Visakhapatnam, Visakhapatnam District.
6. The Union of India, Represented by its Secretary, Minister of Roads, Transport and Highways, Central Secretary, New Delhi
7. The District Collector Arbitrator, Collector Office, Visakhapatnam
8. The Tahsildar, Anakapalli Mandal, Anakapalli
9. The Sub Registrar, Anakapalli SRO, Anakapalli
10. The District Collector, Anakapalli

...Respondents

IA NO: 1 OF 2025

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 It is, in regards to the Affidavit on behalf of Petitioner /Appellant / National Highways Authority of India (NHAI); on the basis of the facts, circumstances, legal position, matter of record and the principles of law, most respectfully and humbly prayed by the Petitioner / Appellant / National Highways Authority of India (NHAI) that this Hon'ble Court would graciously be pleased to condone the delay of 57 Days 2025 before the Hon'ble High Court of Andhra

Pradesh ; and/or, to pass any other or further order(s), instructions and directions as this Hon'ble Court may deem fit and proper.

IA NO: 2 OF 2025

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 allow the present Petition and to stay all further proceedings in regards to the impugned Final Order/Judgement dated 24.01.2025 in the Writ Petition - WP No. 13038 of 2022 passed by the Ld. Single Judge of this Hon'ble High Court of Andhra Pradesh at Amaravati; and/or, to pass a

**Counsel for the Petitioner: CHAUDHARY AND CHAUDHARY
ADVOCATES AND SOLICITORS LAW FIRM**

**Counsel for the Respondents: GP FOR REVENUE, GP FOR LAND
ACQUISITION & Sri B S MANI KUMAR**

The Court made the following order:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

WRIT APPEAL NO: 799/2025

ORDER: *(per Ravi Nath Tilhari, J)*

Heard Ms. Sodum Anvesha, learned counsel representing M/s. Chaudhary & Chaudhary Associates and Solicitors for the appellant and Sri Narasimha Rao Gudiseva, learned counsel representing Sri B.S. Mani Kumar, learned Government Pleader for Land Acquisition appearing for respondent Nos.1 & 2.

2. This Writ Appeal has been filed by the Director of National Highway Authority (in short, 'NHAI') (respondent No.5 in the writ petition No.13038 of 2022).

3. The writ petition was filed by writ petitioners - the present respondent Nos.1 & 2, whose land in Survey No.1652/2A1 situated in Anakapalli Village and Mandal, was acquired under the National Highways Act, 1956 ("in short, N.H. Act"). The award was made by the competent authority under the N.H. Act *vide* award No.46 of 2018 dated 05.11.2018 in respect of those writ petitioners. The petitioners not being satisfied approached the Arbitrator under Section 3G(6) of the N.H.Act. The Arbitrator, in Arbitration No.195 of 2019 passed the Award dated 21.03.2022 and maintained the Award of the competent authority.

4. The writ petition in W.P.No.13038 of 2022 was filed questioning the awards, with the prayer as under:

"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 issue a writ, order or direction more particularly one in the nature of writ of certiorari, mandamus to call for records on the file of the Respondent no.5 in Arbitration No.195/2019, Dt.21-03- 2022 and the award No.46 / 2018, dt.05-11-2018 in respect of the petitioners and to quash the same insofar as it restricts the compensation to Rs.1,20,00,000/- per acre for the lands in Survey No. 1652/2A1 situated in Anakapalli Village and Mandal and consequently direct the 2nd respondent to pass award and pay compensation considering the fact of conversion of subject land into non agriculture land and determine the market value of the subject land Rs.17500/- per square yard as given by Respondent no.8 at the date of publication of notification."

5. The writ petitioner's case, *inter alia*, was that the award was not in accordance with law. In passing the award, the District Collector & Arbitrator of Visakhapatnam, did not consider that the acquired land fell in the industrial land use, contrary to the material, which showed that the land fell in the commercial land use and in that regard, the letter issued by Visakhapatnam Urban Development Authority (in short, 'VUDA') vide E Office No.11024/29/2018/L1, dated 29.09.2018, was not considered.

6. On behalf of the respondent No.5 (the present appellant), objections were raised, *inter alia*, on the ground that the writ petition under Article 226 of the Constitution of India directly against the award of the Arbitrator was not maintainable. The petitioners had a remedy under Section 34 of the Arbitration

and Conciliation Act, 1996, (in short, 'the Act 1996') for setting aside the award, which was not availed.

7. The writ petition has been disposed of, setting aside the award of the Arbitrator in Arbitration No.195 of 2019, dated 21.03.2022. The matter has been remanded to the Arbitrator for fresh adjudication, considering the letter dated 29.09.2018 of the Visakhapatnam Urban Development Authority. The operative portion of the judgment and order dated 24.01.2025 reads as follows:

“11. Accordingly, the Writ Petition is disposed of setting aside the order of respondent No.5 in Arbitration No.195/2019 dated 21.03.2022 in respect of petitioner and remanded the matter to the Arbitrator & Collector concerned, the Arbitrator & Collector shall adjudicate on the aspect whether the letter issued by Visakhapatnam Urban Development Authority vide E Office No.11024/29/2018/L1, dated 29.09.2018 is sufficient to come to conclusion that the subject land is commercial land or not and pass orders afresh in accordance with law, after hearing the parties concerned and after considering the documents placed by the petitioners, within a period of 12 weeks from the date of receipt of a copy of this order. The petitioners are at liberty to place before the Arbitrator the relevant material to show that the subject land falls under the commercial/industrial use. There shall be no order as to costs.”

8. Learned counsel for the appellant submits that the N.H. Act, applies the Act, 1996 to every arbitration under the N.H. Act, *vide* Section 3G(6), and, in view thereof, against the award of the Arbitrator, the remedy was to file a petition under Section 34 of the Act, 1996 to set aside the award. The writ

petition under Article 226, directly challenging the award, ought not to have been entertained. She submits that, specific objection to that effect was raised, but that was not considered and the writ petition was decided setting aside the award and making remand. The decision was arrived at for the reasons recorded under paras 7 to 10 of the judgment and order which read as under:

“7. The main ground that has been urged and raised before this Court is that the letter issued by the Visakhapatnam Urban Development Authority shows that the land in survey No.1652 of Sunkarametta village, R.S.Ward, Anakapalli Mandal falls under industrial zone. However, the said aspect was not answered nor given any reason for discarding the proceedings dated 29.09.2018 issued by Visakhapatnam Urban Development Authority by the arbitrator and thereby came to a conclusion that the subject land does not fall within the industrial use. Perusal of the said document would indicate that the land in survey No.1652 of Sunkarametta village is earmarked partly fallen in industrial land use and 80 meters wide road (NH16) is passing through the survey number as per sanctioned VMR Master Plan.

8. The order of the Arbitrator dated 21.03.2022 at conclusion portion reads as follows:

“In this case, there is no evidence on record to show that the subject land is notified under APMRUDA Act 2016 as Commercial/Industrial Zone and the petitioners have paid the CLU charges, even though the land is alleged to have been Notified as Commercial/Industrial (Nonagricultural) Zone by VMRDA under the Andhra Pradesh Metropolitan Region & Urban Development Authorities Act 2016

& Rules as rightly contended by the 2nd respondent. In the absence of such evidence, it cannot be treated that the land falls within the ambit of Commercial area for the purpose of arriving market value of the land under Acquisition. As such, the petitioner is not entitled to get the market value of the land under Acquisition as if a commercial land as discussed supra.

A perusal of the Award goes to show that the CALA & Spl.Dy.Collector (LA), NH-16 has followed the Guide lines and provisions laid down under 26(1) of RFCTLARR Act 2013 while arriving market value of the land under acquisition and awarded the compensation in respect of the subject land and things attached to the land as per the RFCTLARR Act 2013. Hence, no interference is warranted with the Award No.46/2018 dt.05.11.2018 in respect of the petitioners. Accordingly, I uphold the Award as far as the petitioners is concerned.”

9. Perusal of the order would goes to show that the Arbitrator at one breath stated that no evidence was placed on record to show that the said land was notified as commercial land and in another breath it was stated that the petitioners have paid the CLU charges, even though the land is alleged to have been notified as commercial zone by VMRDA under the Andhra Pradesh Metropolitan Region & Urban Development Authorities Act 2016 & Rules. There is ambiguity in the said finding.

10. In view of the above, there is some force in the contention of learned counsel for the petitioners that the Arbitrator has not taken into consideration the letter issued by the Visakhapatnam Urban Development Authority dated 29.09.2018. This Court, under Article 226 of the Constitution of India, cannot go into the aspect of

whether the petitioners' land falls within the part of industrial land use or not and the other aspects of the issue. In these circumstances, this is a fit case to remand the matter to the Arbitrator & Collector concerned for passing fresh orders by taking into consideration the letter issued by the Visakhapatnam Urban Development Authority dated 29.09.2018."

9. Learned counsel for the appellant further submits that, even on the merits, the impugned judgment and order cannot be sustained, as it proceeded on the wrong assumption that the letter dated 29.09.2018 of VUDA was not considered by the Arbitrator, whereas that letter was duly taken into consideration.

10. Learned counsel for the appellant placed reliance in ***Kirpal Singh v. Government of India, New Delhi and Others***¹, ***Voluntary Consumer Assistance Network v. The Union of India***, decided on 01.04.2026 in W.P. (PIL) No.20 of 2026 of this Court; and in ***Ramashankar Yadav and Another v. Union of India and 3 Others***, in Writ-C No.26529 of 2025, decided on 15.10.2025 by the High Court of Allahabad.

11. Sri Narasimha Rao Gudiseva, learned counsel appearing for the respondents/writ petitioners submits that the writ petition challenging the award, was maintainable. There was no proper determination of the market value and the letter dated 29.09.2018 was not appreciated by the Arbitrator. The alternative remedy under Section 34 of the Act 1996 is not an absolute

¹ 2024 SCC OnLine SC 3814

bar to the maintainability of the writ petition. There is no error in the impugned judgment and order which calls for no interference.

12. Learned counsel for the respondents/writ petitioners further submits that the only direction issued to the Arbitrator is to pass the award afresh after taking into consideration the letter dated 29.08.2018, and that too only with respect to the writ petitioners. So, no prejudice is caused to the writ appellants. When a fresh adjudication is made, the writ appellants shall have an opportunity of hearing. He submits that the award was passed in the year 2022, and after a lapse of almost 4 years, if the writ petitioners are relegated to the remedy under Section 34 of the Act 1996 it would delay the proceedings for determination of the compensation under N.H. Act.

13. Learned counsel for the writ petitioners/respondent Nos.1 & 2 has placed reliance in i) ***Hareshbhai Punabhai Moradiya v. Competent Authority***, in R/Special Civil Application No.16804 of 2018, decided by the High Court of Gujarat, at Ahmedabad; ii) ***K. Peda Venkataiah and Others v. Government of Andhra Pradesh and Others***², decided by the High Court of Judicature at Hyderabad, ***Abdul Hameed v. The Deputy Commissioner***, decided by High Court of Karnataka in W.P.No.226493 of 2020 (LA-RES) and ***Vittal Reddy v. Principal Secretary***³.

² 2004 (3) ALT 78 (D.B.)

³ 2004 (4) ALR 430 (S.B.)

14. We have considered the aforesaid submissions of the learned counsels for the parties and perused the material on record.

15. **The first point for consideration** is with respect to the maintainability and entertainability of the writ petition under Article 226 of the Constitution of India, filed against the award of the arbitrator under N.H. Act read with the Act 1996, without challenging the Award under Section 34 of the Act 1996.

16. The law is well settled that **1)** Statutory alternative remedy is not an absolute bar in maintaining and entertaining the writ petition; **2)** In the presence of the statutory alternative remedy, the High Court should ordinarily not entertain the writ petition; and **3)** that there are well recognized exceptions to the rule of exhaustion of alternative remedy i.e., there is: **a)** violation of the fundamental rights; **b)** violation of the principles of natural justice; **c)** lack of jurisdiction; and **d)** when the vires of a statute is under challenge.

17. In ***Whirlpool Corporation v. Registrar of Trade Marks***⁴, the Hon'ble Apex Court held that under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as

⁴ (1998) 8 SCC 1

a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.

Paragraph Nos.14 to 20 in ***Whirlpool Corporation*** (supra) read as under:

“14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for “any other purpose”.

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.

16. Rashid Ahmed v. Municipal Board, Kairana [1950 SCC 221 : AIR 1950 SC 163 : 1950 SCR 566] laid down that existence of an adequate legal remedy was a factor to be taken into consideration in

the matter of granting writs. This was followed by another Rashid case, namely, K.S. Rashid & Son v. Income Tax Investigation Commission [AIR 1954 SC 207 : (1954) 25 ITR 167] which reiterated the above proposition and held that where alternative remedy existed, it would be a sound exercise of discretion to refuse to interfere in a petition under Article 226. This proposition was, however, qualified by the significant words, “unless there are good grounds therefor”, which indicated that alternative remedy would not operate as an absolute bar and that writ petition under Article 226 could still be entertained in exceptional circumstances.

17. A specific and clear rule was laid down in State of U.P. v. Mohd. Nooh [AIR 1958 SC 86 : 1958 SCR 595] as under:

“But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies.”

18. This proposition was considered by a Constitution Bench of this Court in A.V. Venkateswaran, Collector of Customs v. Ramchand Sobhraj Wadhvani [AIR 1961 SC 1506 : (1962) 1 SCR 753] and was affirmed and followed in the following words:

“The passages in the judgments of this Court we have extracted would indicate (1) that the two exceptions which the learned Solicitor General formulated to the normal rule as to the effect of the existence of an adequate alternative remedy were by no means exhaustive, and (2) that even beyond them a discretion vested in the High Court to have entertained the petition and granted the petitioner relief notwithstanding the existence of an alternative remedy. We need only add

that the broad lines of the general principles on which the Court should act having been clearly laid down, their application to the facts of each particular case must necessarily be dependent on a variety of individual facts which must govern the proper exercise of the discretion of the Court, and that in a matter which is thus pre-eminently one of discretion, it is not possible or even if it were, it would not be desirable to lay down inflexible rules which should be applied with rigidity in every case which comes up before the Court."

19. *Another Constitution Bench decision in Calcutta Discount Co. Ltd. v. ITO, Companies Distt. I [AIR 1961 SC 372 : (1961) 41 ITR 191] laid down:*

"Though the writ of prohibition or certiorari will not issue against an executive authority, the High Courts have power to issue in a fit case an order prohibiting an executive authority from acting without jurisdiction. Where such action of an executive authority acting without jurisdiction subjects or is likely to subject a person to lengthy proceedings and unnecessary harassment, the High Courts will issue appropriate orders or directions to prevent such consequences. Writ of certiorari and prohibition can issue against the Income Tax Officer acting without jurisdiction under Section 34, Income Tax Act."

20. *Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the*

writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation.”

18. In **Commissioner of Income Tax v. Chhabil Dass Agarwal**⁵, the Hon'ble Apex Court held that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation. There the Apex Court held that, the Income Tax Act provided complete machinery for the assessment/reassessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders, and the assessee could not be permitted to abandon that machinery and to invoke the jurisdiction of High Court under Article 226 of the Constitution when he had adequate remedy open to him by an appeal under the statute. Paragraphs Nos.15 & 16 in **Commissioner of Income Tax** (supra) read as under:

“15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case [AIR 1964 SC 1419] , Titaghur Paper Mills case [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 : 1983 SCC (Tax) 131] and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the

⁵ (2014) 1 SCC 603

aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.

16. In the instant case, the Act provides complete machinery for the assessment/reassessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders passed by the Revenue Authorities, and the assessee could not be permitted to abandon that machinery and to invoke the jurisdiction of the High Court under Article 226 of the Constitution when he had adequate remedy open to him by an appeal to the Commissioner of Income Tax (Appeals). The remedy under the statute, however, must be effective and not a mere formality with no substantial relief. In Ram and Shyam Co. v. State of Haryana [(1985) 3 SCC 267] this Court has noticed that if an appeal is from “Caesar to Caesar's wife” the existence of alternative remedy would be a mirage and an exercise in futility.”

19. Recently, in **Rikhab Chand Jain v. Union of India**⁶, the Hon'ble Apex Court reiterated that the principle, plainly, is that, if a remedy is available to a party before the High Court in another jurisdiction, the writ jurisdiction should not normally be exercised on a petition under Article 226, for, that would allow the machinery set up by the concerned statute to be bye-passed. Paragraph Nos.7 to 10 in **Rikhab Chand Jain** (supra) read as under:

“7. Decisions of this court are legion from which guidance can aptly be drawn as to when a writ petition ought to be entertained despite

⁶ 2025 SCC OnLine SC 2510

the party approaching the High Court not exhausting the alternative statutory remedy available to him/her/it. Insistence by the courts—both this court and the High Courts—of exhaustion of a statutory remedy provided by an enactment before invoking the writ jurisdiction of a High Court under article 226 of the Constitution can be traced to one of several self-imposed restrictions, laid down by judicial precedents of this court. Unless, of course, any of the exceptions (challenge to an act/order grounded on (i) breach of a fundamental right; (ii) violation of natural justice principles; (iii) lack of jurisdiction; and (iv) unconstitutionality of a statute) is satisfied, that a writ court may refuse to entertain a writ petition does not admit of any doubt. This court relying on a host of decisions including State of U.P. v. Mohammad Nooh [1957 SCC OnLine SC 21; AIR 1958 SC 86.] and Titaghur Paper Mills Co. Ltd. v. State of Orissa [(1983) 53 STC 315 (SC); (1983) 142 ITR 663 (SC); (1983) 2 SCC 433; 1983 SCC (Tax) 131; 1983 SCC OnLine SC 102.] has, in Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority [(2023) 109 GSTR 402 (SC); 2023 SCC OnLine SC 95.] , reiterated that availability of an alternative statutory remedy does not oust the jurisdiction of a writ court. It was also explained how “entertainability of a writ petition” is a concept distinct from the concept of “maintainability of a writ petition”.

8. However, this particular appeal unfolds a fact situation which requires consideration of the issue from a different perspective. We wish to justify our conclusions by referring to two old-era Constitution Bench decisions of high authority, which have seemingly faded into obscurity but the significance and impact whereof have continued relevance even in present times.

9. While deciding whether to entertain a petition under article 226 bearing in mind the precedents in the field, a writ court ought to additionally notice the forum designated by the statute for the

litigant to approach. This is necessary because the alternative forum that is provided by the statute has to be one which can dispense speedy and efficacious relief. However, as in the present case, if the statutorily designated alternative forum happens to be the High Court itself whose jurisdiction under article 226 is invoked and not any ordinary statutory functionary/Tribunal, refusal to entertain the petition should be the rule and entertaining it an exception.

10. We may profitably refer, in this context, to the Constitution Bench decision in Thansingh Nathmal v. Superintendent of Taxes [(1964) 15 STC 468 (SC); 1964 SCC OnLine SC 13; AIR 1964 SC 1419.] . In Thansingh Nathmal v. Superintendent of Taxes [(1964) 15 STC 468 (SC); 1964 SCC OnLine SC 13; AIR 1964 SC 1419.] , this court had the occasion to lay down a principle of law which is salutary and not to be found in any other previous decision rendered by it. The principle, plainly, is that, if a remedy is available to a party before the High Court in another jurisdiction, the writ jurisdiction should not normally be exercised on a petition under article 226, for, that would allow the machinery set up by the concerned statute to be bye-passed. The relevant passage from the decision reads as follows (page 474 in 15 STC):

*“... The jurisdiction of the High Court under article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the article. But **the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations.** Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. **Ordinarily the court will not***

entertain a petition for a writ under article 226, where the petitioner has an alternative remedy, which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or Tribunal, to correct errors of fact, and does not by assuming jurisdiction under article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another Tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under article 226 of the Constitution, the machinery created under the statute to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up.”

(emphasis ours)

20. In ***Ramashankar Yadav (Supra)***, the Allahabad High Court, on consideration of various judgments of the Hon’ble Supreme Court summed up in paragraphs 6 & 6.1 as under:

“6. The primary question that arises for consideration in the instant matter is whether the present writ petition is maintainable in view of the statutory remedy available under Section 34 of the Arbitration Act, 1996. This Court has carefully considered the rival submissions and the legal precedents cited by both parties.

6.1. It is well-established that writ jurisdiction under Article 226 of the Constitution is discretionary and should ordinarily not be exercised when an adequate and efficacious alternative remedy is available. The Supreme Court in Commissioner of Income Tax v. Chhabil Dass Agarwal (supra) has consistently held that challenge to arbitral awards must be made through the statutory mechanism provided under Section 34 of the Arbitration Act, 1996, except in rarest of rare cases where the order is passed in complete defiance of law, without jurisdiction, or in violation of natural justice.”

21. The N.H. Act and the Act, 1996 are complete code. The statute provides the remedy under Section 34 of the Act, 1996 to challenge the award of the arbitrator on specified grounds and any party aggrieved from the decision under Section 34 has the statutory remedy of appeal under Section 37 of the Act. So, ordinarily a challenge to an award shall be made in proceedings under Section 34 of the Act, 1996 on the statutorily recognized grounds. Challenge to the award directly under Article 226 of the Constitution of India without taking recourse to Section 34 of the Act, 1996, in the absence of any well recognized exceptions being attracted, must ordinarily fail on the ground of statutory alternative remedy.

22. In the present case, the aspect of the maintainability and entertainability of the writ petition was not considered by the learned Single Judge. It is evident that none of the grounds i.e., the exceptions, were available to the writ petitioners so as to entertain the writ petition. When the statutory alternative remedy was available but was not availed of the writ petition was not

entertainable in the absence of the well recognized exceptions mentioned above.

23. The second point for consideration is whether the ground for interference was made out with the award because of the letter of Visakhapatnam Urban Development Authority, dated 29.09.2018. In other words if that letter was taken into consideration by the Arbitrator or not ? The Judgment under challenge proceeds on the premise that the letter dated 29.09.2018 was not considered.

24. Learned counsel for the appellant referred to the part of the award, (at page Nos.63 & 64 of the writ appeal) to contend that the letter dated 29.09.2018 of VUDA was considered by the Arbitrator. The relevant part reads as under:

“A perusal of the alleged letter of VUDA dt.29.09.2018 shows that on the request of the applicant dt.31.08.2018, the letter was issued by Chief Urban planner, VMRDA Visakhapatnam mentioned that, wherein it has been mentioned that, the Sy.No.1652 of Sunkarametta(V), R.S. Ward, Anakapalli (M) is earmarked partly fallen in Industrial land use. Let it be presumed that, the certificate is a genuine one, which can be taken into account. But, the certificate did not disclose the subject land sy.No.1652/2A specifically and for which a genuine doubt arises as to what extent in the said sy.no. comes in the ambit of industrial area since, the recitals in the certificate shows some part of the survey number is industrial area. However, it is clear from the above instructions/ guidelines on Land Acquisition for National Highways, Government of India, Ministry of Road Transport and Highways and in the light

of the decision of the Hon'ble Supreme Court, coupled with the sections 3 & 15(5) of APMRUDA Act 2016, even though the land is earmarked in the Master Plan as commercial/ Industrial Zone, unless and until it is notified under APMRUDA Act 2016 and Change of Land Use charges (CLU charges) have been paid by the land owner, the land owner will have no right to get market value of the land as one with Commercial/Industrial in respect of compensation.

In this case, there is no evidence on record to show that the subject land is notified under APMRUDA Act 2016 as Commercial / Industrial Zone and the Petitioners have paid the CLU charges, even though the land is alleged to have been Notified as Commercial/ Industrial (Non-agricultural) Zone by VMRDA under the Andhra Pradesh Metropolitan Region & Urban Development Authorities Act 2016 & Rules as rightly contended by the 2nd Respondent. In the absence of such evidence, it cannot be treated that the land falls within the ambit of Commercial area for the purpose of arriving market value of the land under Acquisition. As such the is not entitled to get the market value of the land under Acquisition as if a commercial land as discussed supra.”

25. Learned counsel for the appellant also referred to page 62 of the writ appeal (part of the Award), which shows that while narrating the claim of the writ petitioners based on the letter dated 29.09.2018 of VUDA, the arbitrator referred to that letter. That relevant part of the award reads as under:

“The main claim of the Petitioners is that the subject land falls within the ambit of Commercial/ Industry category since, the land was converted into Non- agriculture and commercial activity is going on, the market value has to be fixed at Rs.17,500/- per acre taking into consideration as commercial property/ Industrial as per the VUDA letter dt.29.9.2018, that Survey No.1652 of RS Ward,

Anakapalli Mandal is ear-marked partly fallen in Industrial land use and NH-16 is passing through said survey number as per the VMR master plan.”

26. From the aforesaid, it is clear beyond any doubt that the letter of VUDA dated 29.09.2018 was taken into consideration while passing the award by the arbitrator but reliance was not placed for the reasons recorded in the award itself (at page 63 & 64). So, in our view, it is not a case of ignoring or not taking into consideration the letter of VUDA dated 29.09.2018.

27. The aforementioned relevant part escaped consideration in the impugned judgment as is evident from para 8 of the judgment in which only part of the award, which reads as under, was noticed and the other relevant part of the award as reproduced above appears not to have been brought to the notice of the learned Single Judge. Para 8 of the judgment reads as under:

“8. The order of the Arbitrator dated 21.03.2022 at conclusion portion reads as follows:

“In this case, there is no evidence on record to show that the subject land is notified under APMRUDA Act 2016 as Commercial/Industrial Zone and the petitioners have paid the CLU charges, even though the land is alleged to have been Notified as Commercial/Industrial (Nonagricultural) Zone by VMRDA under the Andhra Pradesh Metropolitan Region & Urban Development Authorities Act 2016 & Rules as rightly contended by the 2nd respondent. In the absence of such evidence, it cannot be treated that the land falls within the ambit of Commercial area for the

purpose of arriving market value of the land under Acquisition. As such, the petitioner is not entitled to get the market value of the land under Acquisition as if a commercial land as discussed supra.

A perusal of the Award goes to show that the CALA & Spl.Dy.Collector (LA), NH-16 has followed the Guide lines and provisions laid down under 26(1) of RFCTLARR Act 2013 while arriving market value of the land under acquisition and awarded the compensation in respect of the subject land and things attached to the land as per the RFCTLARR Act 2013. Hence, no interference is warranted with the Award No.46/2018 dt.05.11.2018 in respect of the petitioners. Accordingly, I uphold the Award as far as the petitioners is concerned.””

28. We find force in the submission of the learned counsel for the writ appellant that the letter of VUDA dated 29.09.2018 was taken into consideration by the Arbitrator which finds consideration in the Award itself. Such submission is supported by the record.

29. The submission of the learned counsel for the writ petitioners (respondent Nos.1 & 2) that no prejudice would be caused as the matter has been simply remanded, cannot be accepted. The award has been set aside and the matter has been remanded for fresh consideration, in view of the letter dated 29.09.2018. It cannot be said that no prejudice would be caused or that the writ appellant cannot be affected adversely by the impugned judgment.

30. In **Hareshbhai Punabhai Moradiya (supra)** upon which learned counsel for the respondent (writ petitioner) placed reliance, it was held as under:

“5. We notice that there is general consensus amongst the parties before us that if any relevant aspect or factor statutorily required to be considered while arriving at the market value has been ignored or overlooked or omitted from consideration by the Land Acquisition Officer then the determination of market value is legally faulty and is required to be judicially corrected. The only question that gripped us was whether the said correction should be done by the Arbitrator before whom the arbitration proceedings are pending as has been submitted on behalf of the respondents or should we ourselves direct correction of the mistake in law. After conclusion of arguments, we had adjourned the matter to enable the learned advocates for the parties to deliberate on this issue.

6. Today when the matter is taken up for hearing, it has been submitted by learned advocate Mr. Yagnik on instructions that his client is agreeable to the matter being remanded back to the competent authority only for the limited purpose of redetermination and refixation of market value in accordance with the mandate contained in Section 26 of the Act of 2013 and does not oppose the request of the National Highways Authority to protect all the actions that have been taken by the competent authority, Central Government and the National Highways Authority subsequent to the award. Learned advocate for the respondents have submitted that the court may pass suitable order directing the competent authority to determine the market value as per Section 26 of the Act of 2013. Both advocates have prayed that it may be clarified in the order that the same is being passed in the peculiar facts of the case and that the court has not examined or pronounced upon the legality or otherwise of any legal arguments advanced by the respective

parties. Learned advocate for the National Highways Authority of India has further urged that suitable observation may be made protecting the action of taking over of possession of the acquired land and other steps taken by the competent authority and the National Highways Authority of India after the declaration of award.

7. The learned Assistant Government Pleader submitted that he does not have anything more to submit then whatever has been canvassed on behalf of the respondent No.3

8. We are of the considered view that award impugned in this group of petitions have not been cast after taking into consideration all the relevant aspects as provided under the provisions of law especially as per Section 26 of the Act of 2013. There cannot be any dispute that on account of present position of law, the compensation to be awarded is determined strictly in accordance therewith and the same could not be disputed by the respondents. The communication issued by the Government of India, Ministry of Road, Transport and Highways at page-109 of the compilation of some of the petitions dated 28.12.2017 is unequivocally clear in respect of the determination of compensation.”

31. In ***Hareshbhai Punabhai Moradiya (supra)*** the relevant considerations were not taken into account while passing the impugned award. In the present case, the letter dated 29.09.2018 was taken into consideration, in determination of the compensation.

32. In ***K. Peda Venkataiah (supra)*** upon which also learned counsel for the respondent placed reliance, it was held as under:

“23. The next question that falls for consideration is whether the writ petition deserves dismissal on the ground that the appellants

have already availed alternative remedy available to them in law by seeking reference to the Civil Court under Section 18 of the Act?

24. It is fairly well settled and needs no restatement in our hands that existence of a statutory remedy does not affect the jurisdiction of the High Court to issue a writ. It may be one of the factors, which may have to be taken into consideration in the matter of granting writs.

25. A Division Bench of this Court, to which one of us is a member (B. Sudershan Reddy, J.) in Estate officer and Manager (Recoveries), A.P.I.I.C.L. v. Recovery Officer, held:

'It is a rule of self imposed limitation, a rule of policy, and discretion rather than a rule of law. The Court in exceptional cases can always issue a writ such as a writ of certiorari, notwithstanding the fact that the statutory remedies have not been exhausted. There are at least two well-recognised exceptions to the doctrine with regard to the exhaustion of statutory remedies. In the first place, it is well settled that where proceedings are taken before a Tribunal under a provision of law, which is ultra vires, it is open to a party aggrieved thereby to move the High Court under Article 226 for issuing appropriate writs. In the second place, the doctrine has no application in a case where the impugned order has been made in violation of the principles of natural justice.'

26. It is a true and very well established proposition of law that when an alternative and equally efficacious remedy is open to a litigant he should be required to pursue that remedy and not to invoke the special jurisdiction of the High Court under Article 226 of the Constitution of India. Ordinarily, an award made under Section 11 of the Act after making enquiry under Section 9 of the Act determining (a) the true area of the land; (b) the compensation which should be allowed for the land; and (c) the apportionment of

the said compensation among all the persons known or believed to be interested in the land, may not be interfered with by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India since the aggrieved persons have an alternative and effective remedy under Section 18 of the Act by way of a reference to competent Court of civil jurisdiction, where objections, be it to the measurement of the land, amount of compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested etc., can be raised and decided. This Court cannot elect to decide for itself the said questions in a proceeding under Article 226 of the Constitution of India. Adequacy or otherwise of the compensation cannot be gone into by this Court in a judicial review proceeding. Nor this Court can undertake to decide what is the true area of the land and as to what would be the market value of the acquired land.”

33. In **Vittal Reddy** (supra) the High Court of Judicature at Hyderabad held that if the award suffered from material irregularities and statutory violations, affected parties need not be required to seek reference under Section 18 of the Land Acquisition Act and await the adjudication thereof. Based on the **Vittal Reddy** (supra), learned counsel for the respondents tried to submit that in the present case also, if there was grievance with respect to the award under the Act 1996, it was not needed to be challenged under Section 34 of the Act 1996.

34. We are not in agreement with the submission so advanced. In **Vittal Reddy** (supra) also it was held that the only remedy for a person who is not satisfied with an award passed under the Act was to seek reference under

Section 18 of the Act. It was, however further held that, if the Court find that the award suffered from material irregularities and statutory violation, then the writ petition could be entertained. There, it was found that the award was passed in violation of the mandatory provisions of the Act 1894. The crucial date for assessing the market value of the land was not considered. In the present case, the writ petition has been allowed on the ground that the letter of VUDA dated 29.09.2018 was not taken into consideration, which fact is not correct. The said letter was taken into consideration and on appreciation thereof the award was passed. So, it is not a case of ignoring the relevant material nor of violation of any statutory provision on the face of the award, so as not to approach under Section 34 of the Act 1996.

35. Learned counsel for the respondents (writ petitioners) cited **Abdul Hameed** (supra). It was held that under Section 34 of the Act, 1996, an application for setting aside the arbitral award can be filed only against the arbitral award and that too on the grounds specified under Section 34 of the Act. In the said case, there was no award passed by the arbitrator. So, it was held that there was no question of applicability of provisions of Section 34 or 37 of the Act 1996. In the present case, there is an award.

36. So, the judgments on which reliance has been placed by the learned counsel for the respondents (writ petitioners) do not support the contentions raised by him and are not applicable in the facts of the present case.

37. In view of the above consideration, no case was made out by the writ petitioners for setting aside the arbitral award on the ground it has been set aside and the matter has been remanded.

38. The writ appeal is allowed setting aside the judgment and order dated 24.01.2025 passed in W.P.No.13038 of 2022.

39. The writ petitioners however shall be at liberty to seek such other remedy as may be open to them under law, before the appropriate forum, if so advised.

No order as to costs.

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

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI,J

Dated: 21.07.2026
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR

CHINTALAPUDI

WRIT APPEAL NO: 799/2025

Dated: 21.07.2026
Note: LR copy be marked
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