

**SUBJECT NO.56**

**I. File Rc.No.314/1996/RI-II**

**Sub:- Land acquisition cases in Supreme Court and their status- Reg.**

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**AGENDA NOTE:**

VUDA had acquired an extent Ac.2.15582 Sq.ft in T.S.No.83/1 Waltair Ward under Award No.3/82, dt.20-2-1982 and the compensation amount of Rs.7.83 Lakhs was deposited in Civil Court under section 30 & 31 (2) of L.A. Act, and the land was handed over to VUDA on 3.12.1983.

In this connection, it is submitted that the brief history of the case is as follows:

1. It is submitted that the Town Planning Trust proposed to acquire Ac.2.15582 Sq.ft in T.S.No.83/1 Waltair Ward for a Zonal Center, a draft notification was published on 3-8-1978 with the approval of Government.
2. When the Land Acquisition proceedings were at the Award Stage, one Sri S.V.Sudarsan, brother of Sri S.S.Naidu filed WP No.355/80 and questioned Sec. 4 (1) notification, which was dismissed by the High court. The Writ Appeal 727/81, filed by the land owners was also dismissed on 3-11-1981. Subsequently, the SLP No.62 filed by them in the Hon'ble Supreme Court was also dismissed on 29-1-1982.
3. After that, the then LAO, VUDA passed the Award No.3/82 dt.20-2-82, and deposited the compensation amount of Rs.7.83 lakhs in Civil Court U/s. 30 & 31(2) of L.A., Act.
4. Smt S.Sai Brahadamba W/o.late S.L.R.Naidu and another represented to Government stating that they purchased 10 acres of land in T.S.No.83/1 of Waltair Ward and that 8 acres were acquired by the Town Planning Trust (TPT), that they constructed residential building and they are left with Ac.2.15582 Sq.ft only. They have pleaded that 2 acres of land was utilized by VUDA and 6 acres of land is lying vacant. They requested to withdraw LA proceedings subject to giving required land for road widening.
5. The Government issued unilaterally G.O. Ms.No. 156 MA dated 25-2-1982, directing the District Collector to send draft withdrawal notification to Government for approval, believing that Ac.8.00 Cts were acquired by the VUDA.
6. After issue of the above orders the Vice-Chairman, VUDA requested the Government Vide D.O. Letter No.3457/76-B-2 dt.5-3-1982 to reconsider the decision and cancel G.O.Ms.No.156 MA dt.25-2-1982 stating that the LA proceedings were completed.
7. The Government issued G.O.Ms.No.714/MA, dt.11-11-1983, cancelling G.O.Ms. No.156 MA dated 25-2-1982.
8. The District Collector, in the letter dt.20-3-98, reported to the Government that the land was taken over possession and handed over to VUDA on 3-12-1983.

9. The land owners filed WP.No.11326/83 seeking quash of the above G.O. The petition was allowed on 25-4-1984 by quashing G.O.Ms.No.714/MA dt.11-11-1983 on the ground that Government did not give opportunity before issuing the said G.O.
10. Hence, the G.O.MS.No.156 MA dated 25-2-1982 directing the District Collector to send draft withdrawal notification to the Government stood valid. The above order was also confirmed by the Division Bench of the Hon'ble High Court. While so, Writ Appeal WA No. 1081/84 against the above order was filed by the VUDA and same was disposed off on 1-2-1989, confirming the orders dt. 25-4-84 of the Hon'ble High Court.
11. The Government at the representation of the land owners reconsidered and issued G.O.MS.No.121 MA dt.27-2-90, requesting the District Collector to take action as per L.A. Act, taking into consideration an extent of Ac.5.00 Cts belonging to them was already acquired and felt that further acquisition may not be fair.
12. The District Collector passed a conclusion of Land Acquisition proceedings stating that it is not feasible for him to withdraw the notification as there is no provision under Land Acquisition Act for returning the land.
13. The Government accordingly issued orders vide G.O.Ms.No.222, MA&UD, Dept.,dt. 30.4.98 cancelling the earlier orders in G.O.Ms.No.121 MA dt.27.2.1990.
14. Against the orders of the Government, vide G.O.Ms.No.222 MA, dt.30-4-1998, in which the G.O.Ms.No.121 MA dt.27-2-1990 cancelled, the matter was taken up by the land owners to Hon'ble High Court of A.P. in Writ Appeal No.1074/1999 and the same was allowed in their favour on 27-2-2002, thus upholding the G.OMs.No.121 MA dt.27-2-1990 i.e., not to acquire further land. This supports and substantiates the earlier G.O.Ms.No.156 dt.25-2-1982.
15. Aggrieved by the above order, the VUDA preferred SLP Nos.1665 and 1666 of 2004 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court gave an order on 22-2-2006, setting aside the judgments and orders in the case, empowering the State Government, to consider the representations of the VUDA and the land owners and pass appropriate orders within 2 months. Consequently, the G.O.Ms.No.156 MA dt.25-2-1982 & G.O.Ms.No.121 MA dt.27-2-1990 have been nullified by the above orders.
16. Accordingly, the parties, represented by their respective counsels, appeared before the Hon'ble Minister for MA & UD Dept, Government of A.P., on 3-11-2007. The Government of A.P., in its G.O.Ms.No.314, dt.18-5-2009 has communicated its order withdrawing the acquisition of land to an extent of Ac 2 .15582 sq.ft in T.S.No.83/1 of Waltair Ward, in exercise of powers conferred under section 48 (1) of the land acquisition Act, 1894 and accordingly, directed the Vice Chairman, VUDA to hand over possession of the property to the land owners.

As per Section 48 (1) of the L.A. Act, a notification in the official Gazette is required to be issued if the State Government decided to withdraw from the acquisition of any land of which possession has not been taken, but in this case, the land possession was already handed over to VUDA by the District Collector on 3-12-1983.

Subsequently, the Government have passed orders in GO.Ms.No.515, dt. 18-8-2009 duly cancelling the Go.Ms.No.314 MA&UD Department dt.18.5.2009 and directed the Vice Chairman, VUDA to take necessary further action accordingly in the matter.

Aggrieved by the above orders of the Government, issued in Go.Ms.No.515 MA&UD Department dt.18.8.2009, Sri S.S.Naidu S/o late S.L.Naidu filed W.P.No.17249/2009 against the Govt. represented by the Principal Secretary, M.A. & UD Department and the VUDA. The Hon'ble High Court, in its order dt.7-2-2011 in W.P.No.17249/2009, allowed the above W.P and held that the matter pertains to the withdrawal of the notification issued under section 4 (1) of the Act of the land of the petitioner had assumed finality and that none of the respondents shall be entitled to re-open the same under any circumstances.

Aggrieved by the said orders of the Hon'ble High Court, appeals were preferred by VUDA and Govt. of Andhra Pradesh rep. by the Principal Secretary in W.A.No.475/201 & W.A.No.1455/2011 before Hon'ble High Court and the same were disposed on 24.1.2012 with the observation that" ***Therefore no reason for the State Government to have passed the order dated 18.8.2009 except perhaps satisfy its capriciousness as mentioned by the learned single judge. We find no merit in these appeals and hope that this long drawn battle eventually gets settled here and now. The writ appeals are dismissed. Miscellaneous applications are also dismissed.***"

The Standing Counsel for VUDA opined in her legal opinion that it is necessary for VUDA to appeal the matter before the Hon'ble Supreme Court of INDIA.

In this regard, action was taken to file SLP in the Hon'ble Supreme Court, the VUDA Board accorded permission to engage a Senior Counsel to the Hon'ble Supreme Court to defend the case and to safe guard the 100 Crores worth property of VUDA.

Accordingly, the Supreme Court of India, in its CC No.9365/2012, Dt.03.07.2012 has ordered that:-

"Delay condoned.

Issue notice in both the special leave petitions.

Since the respondent, Mr.S.S.Naidu, is represented on caveat in both the matters, service on him is dispensed with. As far as the other respondents in both the matters are concerned, they are either the authorities concerned or the State of Andhra Pradesh, who are both represented. Accordingly, service on the said respondents need not be effected, as the learned counsel also undertake to arrange for their appearance.

Accordingly, in both the matters, service will be deemed to have been completed. The respondents will be entitled to file their respective counter affidavits to the special leave petitions within four weeks. Rejoinder, if any, may be filed within two weeks thereafter.

List the matter after eight weeks.

In the meantime, the parties are directed to maintain status-quo, as of today, in respect of the lands in question".

Accordingly a Rejoinder has been issued in the matter on 18.9.2013. On contacting the Standing Counsel to VUDA at Hon'ble Supreme Court of India Smt P.Usha Reddy over phone, she intimated that the case may be posted in the month of January, 2014.

Hence, the matter is placed before VUDA Board for kind perusal.

## **II. File Rc.No.341/1996/RI.II**

It is submitted that two Land Acquisition cases are pending before the Hon'ble Supreme Court of India, New Delhi. The status of the cases is as detailed below:-

**(1)** The Land Acquisition Officer, VUDA had acquired the lands in T.S.No.368/2 of Waltair Ward, Visakhapatnam to an extent of 3198.11 Sq.Yds or 0.2675 Sq.Mtrs., under Award No. 3/1992 dtd.12-10-1992 for purpose of development of Bay View Recreational Complex. The compensation was fixed by the LAO is @ Rs.300/- per Sq.Yd. Dissatisfied by the above compensation awarded by the LAO, the awardees have filed ref., u/s. 18 of LA Act. Thereon, the Hon'ble District Judge, Visakhapatnam passed Decree dtd. 02.08.2005 in OP.No.528/2002 enhanced the market value of the land fixed @ Rs.300/- by the LAO to @ Rs.900/- per Sq.Yd.

The Hon'ble High Court Division Bench in LAAS.No.502 of 2007 has allowed partly setting aside the finding of the reference court with regard to awarding interest from the date of taking possession till the date of preliminary notification u/s. 4 (1) of the LA Act and also ordered that the claimants will be entitled to the amounts due to them together with all statutory benefits from the date of Sec. 4 (1) Notification and the appellant herein shall take all possible steps to pay the same at the earliest.

The Standing Counsel to VUDA at Hyderabad, opined that it is a fit case to Appeal before the Hon'ble Supreme Court of India as the abnormal compensation enhanced was solely on guess work and even the Hon'ble High Court of A.P., did not lay any findings on the case laws cited by the Counsel appearing on behalf of the VUDA and further submitted that she has already consulted Advocate on record, Sri Ananga Bhattacharya, who is well versed with Land Acquisition cases pertaining to enhancement of Compensation. He has also forwarded his Vakalat and Affidavit which needs to be filed before the Hon'ble Supreme Court of India. Vakalat and Affidavit sent by the Advocate on record, Sri Ananga Bhattacharya is submitted for filing of the Appeal in LAAS No.502 of 2007 before the Hon'ble Supreme Court of India.

In this connection, it is submitted that, in pursuance of the Hon'ble High Court orders in its orders dt.5.3.2013 in LAAS No.502/2007, the variation of compensation of land value for the period from the Notification u/s. 4 (1) of the L.A. Act, was published (i.e) from 07.08.1991 and enhanced compensation as ordered by the Hon'ble High Court. Viz., from 07.08.1991 to 06.10.2013 is worked out as detailed below:-

1	Differential Land value @ Rs.600/- per Sq.Yd for 3198.11 Sq.Yds.	19,18,866.00
2	Tree Value	60.00
3	30% Solatium on total Land Value (ie.) Rs.19,18,866.00	5,75,659.80
	<b>Total (Land Value and 30% Solatium)</b>	<b>24,94,525.80</b>
4	9% Interest on MV for one year (ie.) from the date of Notification u/s. 4 (1) of the L.A. Act, from 07.08.1991 to 06.08.1992. (On Land Value + 30% Solatium)	2,24,507.32
5	15% Interest for Land Value and 30% Solatium from the subsequent year (ie.) from 07.08.1992 to 06.10.2013 (Total period = 21 years and 2 months).	79,20,119.41
6	<b>Grand Total:- (Sl. No.1+2+3+4+5)</b>	<b>1,06,39,212.53</b> <b>Or</b> <b>1,06,39,213.00</b>

In this connection, it is submitted that the differential amount computed in compliance of the above order comes to an amount of Rs. **1,06,39,213.00** (Rupees One crore Six lakhs Thirty nine thousand two hundred and thirteen only) as on 06.10.2013. The calculation of LA Compensation enhanced by the Hon'ble High Court @ Rs.900/- per Sq.Yd, including the rate already fixed by the LAO @ Rs.300/- per Sq.Yds., for an extent of 3198.11 Sq.Yds or 0.2675 Sq.Mtrs., of land in S.No.368/2 of Waltair Ward under Award No.3/1992, Dt.12.10.1992.

Since the compensation amount was raised by Rs.1.06 ½ Crores as per the orders of the Hon'ble High Court of AP, Hyderabad, it is decided to file SLP before the Hon'ble Supreme Court of India, New Delhi. Accordingly, an affidavit along with the evidence of the claimants before the Reference Court viz, copies of examination and cross examination of the claimants and the registered documents submitted by the claimants in support of their claim to enhance the compensation amount etc., and the copies of the orders of the Hon'ble District Judge and Hon'ble High Court of AP were sent to Sri Ananga Bhattacharyya, Advocate-on-Record, Supreme Court of India, New Delhi for filing in the SLP (C) No.19195 of 2013.

The fees raised in the above SLP in Hon'ble Supreme Court of India is:-

1. Memo of Fees No.1310/145	...	Rs.1,10,000/-
2. Memo of Fees	...	Rs. 35,000/-
Total:-	...	----- Rs.1,45,000/- -----

The Advocate-on-record has informed on 21.11.2013 that the Hon'ble Court after having seen the Award passed by the L.A.O., observed that the LAO ought to have taken the highest value of the comparative sales rather than relying on the sale transaction with the lowest value and also considering the fact that Vizag is an upcoming Tier II City, the Supreme Court did not deem it a fit case to interfere with the rate of compensation fixed by the Reference Court and confirmed by the Hon'ble High Court.

Hence, the matter is placed before VUDA Board for ratifying the decision taken to file SLP in the Hon'ble Supreme Court of India, pay necessary fees arising thereon and process further as per the opinion of the Advocate-on-Record pursuant to the disposal of S.L.P., in the Hon'ble Supreme Court of India.

Sl. No.	Subject No.	Subject	Resolutions
4	55	Perusal of the Board on the Agenda No. 54 and Status of WA.No.1550/2012 - Submitted for kind perusal-Reg.	<b>The decision of approaching the Honourable Supreme Court of India is ratified and the expenditure incurred for the purpose is approved.</b>
5	56	LAND ACQUISITION CASES in Supreme Court and their status- Reg.	<ul style="list-style-type: none"> <li><b>i. Perused and directed to pursue and see for early disposal</b></li> <li><b>ii. Ratified the decision of filing SLP in the Supreme Court of India and expenditure incurred for the purpose is agreed. Duly taking the legal opinion, process for early payment to avoid further loss towards interest.</b></li> </ul>
6	57	Status of alienation of Government lands to VUDA- Submitted- Reg.	<ul style="list-style-type: none"> <li><b>• VUDA should develop a pucca inventory of lands and buildings available at the earliest.</b></li> <li><b>• The lands of VUDA are to be broadly divided into three categories</b> <ul style="list-style-type: none"> <li><b>i. Title transferred by way of alienation</b></li> <li><b>ii. Advance possession given and alienation pending</b></li> </ul> </li> </ul>

