

CONT.CAS(C) NO.486/2007

VERSUS

RESERVED ON: 05.02.2008

CORAM:

1. Whether reporters of local papers may be allowed to see the judgment? Y
2. To be referred to the Reporter or not? Y
3. Whether judgment should be reported in Digest? Y

1. Prayer made in the contempt petition is as under :-

- “(i) Initiate contempt of courts proceedings against the contemnors/respondents.
- (ii) Punish the contemnors/respondents in accordance with law.
- (iii) Direct the respondents/contemnors to comply with the orders dated 16.09.2003 and 24.07.2006 and to deposit the aforesaid amount of Rs.44,49,455/- alongwith interest @ 18% per annum from the date of application of payment till date.

(iv) Pass the order of heavy cost in favour of the petitioner and against the contemnors/respondents.”

2. The backdrop facts are that for the purpose of metro project, 541 sq.yards of land was sought to be acquired out of part of property bearing municipal No.21, Inder Prakash Building, Barakhamba Road, New Delhi. A multi storeyed building existed on the land. Fortunately, the building was unaffected by the acquisition but certain amenities pertaining to water and electricity supply in the building got affected by the acquisition. WP(C)No.5133/03 was filed. The association of allottees had filed the writ petition claiming right to receive the compensation for the acquired land.

3. The court declined the relief holding that the disbursement of compensation has to be decided in the acquisition proceedings.

4. Though not forming subject matter of the petition, it was recorded in the order that an endeavour would be made to shift the amenities within 30 days so that the land could be used for the purpose for which acquisition was being made. Stand of the petitioner who was impleaded as respondent No.7 was noted that between Rs.35 to Rs.50 lacs would be required for shifting the amenities.

5. While disposing of the said petition it was noted as under :-

“It is now agreed that respondent No.7 would at his own expense shift these amenities from the acquired land to another piece of land available on other part of the plot and identified by DMRC for the purposes. It is also agreed that any compensation that may be paid by the government or by any authority for shifting these amenities from the existing site to another site shall not be claimed by any person except respondent No.7. However, that alone will not create any right in favour of respondent No.7 to claim ownership of the acquired land nor the same would give an exclusive right to the said respondent to claim compensation for the same. However, if any compensation is payable for shifting these facilitates/amenities, respondent No.7 alone will be entitled to such compensation.”

6. Claiming to have spent Rs.48,21,307/- for shifting the amenities and alleging that the Land Acquisition Collector did not pay any money under said head to him, a contempt petition registered as Cont.Cas(C) No.242/2005 was filed.

7. Counsel for the Land Acquisition Collector took a stand that the Land Acquisition Collector was required to pay compensation only for the acquired land and no more. The said stand was repelled by this court vide its order dated 24.7.2006 disposing of Cont.Cas(C) No.242/2005.

8. View taken was that the authority has to pay a holistic compensation which includes money spent for work done which facilitates the vacation of the premises for a public purpose.

9. Directions were issued to the Land Acquisition Collector to take a decision afresh.

10. The Land Acquisition Collector sought review of the

order dated 24.7.2006. A stand was projected that since the award has already been pronounced, the Land Acquisition Collector had become functus-officio. Thus, no supplementary award could be made.

11. Since no formal orders were passed by the Land Acquisition Collector after order dated 24.7.2006, review petition filed by the Land Acquisition Collector was disposed of on 7.11.2006 by recording as under :-

“Learned counsel for the respondent states upon instructions that an appropriate order after examining the matter would be issued in accordance with law. In view of this statement nothing further survives in these proceedings.

The review petition is accordingly disposed off.”

12. Thereafter, the Land Acquisition Collector proceeded to pass an order dated 22.12.2006 disposing of the claim of the petitioner to be paid Rs.48,21,307/-.

13. The Land Acquisition Collector declined to entertain the merits of the claim recording that the award had been pronounced on 30.6.2004 but the claim was submitted on 2.7.2004 i.e. after the award. He noted that no such claim was made pursuant to the notice issued under Section 9 and 10 of the Act. It was further noted that assessment of damage caused to the building resulting from the acquisition of the land was got valued from the Public Works Department and sum of Rs.57,38,229/- assessed by the Public Works Department was allowed in the award under the

heading "*structure*".

14. A short issue arise for consideration. Whether, while passing the order dated 22.12.2006 the Land Acquisition Collector is in contempt of the order dated 16.9.2003.

15. It is urged by learned counsel for the petitioner that the said order required compensation to be paid for shifting of the amenities and admittedly none having been paid, the order has been violated.

16. Per contra, stand of the Land Acquisition Collector is that the consent directions required petitioner to file a proper claim when notice was issued under Section 9 and 10 of the Land Acquisition Act. None having been filed and award having pronounced on the existing material, the Land Acquisition Collector having become functus-officio can do no more. Additionally, it is urged that the assessment of damage caused to the building resulting from the acquisition as valued by Public Works Department has been paid for in the award under the heading "*structure*".

17. It is settled law that only a contumacious violation of an order passed by the court constitutes contempt.

18. Prima facie, there is no contumacious violation of any order passed by the Court.

19. Order dated 16.9.2003 disposing of WP(C) No.5133/03 has to be construed in light of the law. Law, being the Land Acquisition Act,1894.

20. The petitioner ought to have made a claim before the Land Acquisition Collector and submitted proof in support thereof when notice was issued under Section 9 of the Act. He admittedly did not do so.

21. The award stood pronounced on 30.6.2004. The claim was submitted on 2.7.2004. Obviously, on 30.6.2004 the Land Acquisition Collector became functus-officio.

22. The only remedy of the petitioner is to seek reference under Section 18 of the Land Acquisition Collector.

23. The petitioner is better advised to avail said remedy.

24. The notice of contempt is discharged.

25. Petition is dismissed.

February 08, 2008
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(PRADEEP NANDRAJOG)
JUDGE