

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.04.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Cont.P.No.3245 of 2014

R.Rukmani

.. Petitioner

Versus

Mr.Jayakumar,
The Special Tahsildar,
Land Acquisition Unit -V,
Tamilnadu Housing Board Schemes,
Nandanam, Chennai - 35

.. Respondent

Prayer: This Contempt Petition filed under Section 11 of the Contempt of Court Act, 70/71 to punish the respondents for having committed contempt of Court for disobeying the order dated 22.11.2013 and made in W.P.No.24465 of 2013.

For Petitioner : Mr.N.K.Sivakumar

For Respondent : Mr.I.Arokiyasamy
Government Advocate

O R D E R

Alleging disobedience of the order made in W.P.No.24465 of 2013 dated 22.11.2013, Contempt Petition is filed.

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2. Lands owned by the petitioner measuring 4880 sq.ft., in S.No.392/1 in No.189, Sholinganallur Village, Kancheepuram District, has been acquired for housing scheme. Compensation was not paid. Therefore the petitioner filed W.P.No.38950 of 2002 for a mandamus directing the respondents therein to disburse the compensation amount.

Writ petition has been ordered on 12.11.2002 directing the respondents to consider and take further action. In response to the directions made in W.P.No.38950 of 2002 dated 12.11.2002, the Special Tahsildar, Land Acquisition Unit -V, Tamilnadu Housing Board Schemes, Chennai, had sent a letter dated 03.12.2003, stating that the compensation amount of Rs.2,80,413/- payable, in respect of the lands in S.Nos.392/1A and 392/1B has been deposited on the file of the the learned Sub Judge, Poonamallee in Civil Court deposit.

3. Contending inter alia that no compensation amount was deposited in respect of the land measuring 4880 sq.ft., in S.No.392/1 in No.189, Sholinganallur Village, Kancheepuram District, stated supra, petitioner has filed another Writ petition in W.P.No.11657 of 2011, for a mandamus and this Court vide order dated 06.06.2011, directed the Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, to consider the petitioner's representation dated 22.02.2011, within a period of six weeks, from the date of receipt of the copy of the order.

4. Thereafter, when the said representation was not answered, the petitioner had filed Contempt Petition No.337 of 2012. Recording a letter in R.C.No.1350/12/F3 dated

20.06.2012, contempt petition was closed on 29.06.2012. The said letter reads as follows:

" The Compensation awarded for the S.No.392/1A, 392/1B and 399/1A was Rs.2,80,413-00. During the Award enquiry the ownership of the above said land could not be determined and the compensation amount was ordered to be deposited in Civil Court Deposit under Section 30 and 31(2) of L.A. Act, 1894. In this connection, it is informed that, L.A.O.P., case No.121 of 2001 to 128 of 2011 are pending at Sub Court, Poonamallee for the Survey No.392/1A and 392/1B."

5. Once again the petitioner has verified the records of the Sub Court, Poonamallee and found that L.A.O.P.Nos.121 to 128 of 2001, did not pertain to the lands owned by the petitioner measuring 4880 sq.ft., in S.No.392/1 in No.189, Sholinganallur Village, Kancheepuram District. Therefore, she had made a request on 08.04.2013 enclosing a copy of the letter, dated 20.06.2012 to the respondents in W.P.No.24465 of 2013 and requested them to pay compensation for the lands acquired from her.

6. Material on record discloses that Section 4(1) notification under the Land Acquisition Act, was issued on 02.07.1990. Award has been passed on 28.06.1993. Though, the quantum of compensation has been determined in the year 1993, the petitioner, had to litigate for nearly 20 years,

to get the compensation. Considering the conduct of the respondents, in delaying disbursement of compensation, and furnishing wrong L.A.O.P., numbers and for causing mental agony, to the petitioner, this Court vide orders dated 22.11.2013 in W.P.No.24465 of 2013, while directing the respondents therein, to pay compensation amount of Rs.41,864/- as per the working sheet furnished and extracted in the said order, imposed costs of Rs.10,000/- to be paid by Tamilnadu Housing Board, Chennai, to the petitioner.

7. The order made in W.P.No.24465 of 2013 dated 22.11.2013, has not been challenged. Consequently, for compliance of the abovesaid order, representations dated 29.01.2014 and 26.02.2014, have been sent. The Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, has acknowledged the registered letter on 27.02.2014. Thereafter, the petitioner has sent a contempt notice on 25.04.2014, is also acknowledged by the Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai. Having left with no other alternative, the petitioner has filed the present contempt petition No.3245 of 2014.

8. When the matter came up for hearing on 23.01.2015, statutory notice was ordered. Subsequently, Contempt Petition was listed on 20.02.2015. Though, as per the working sheet compensation amount determined was

Rs.41,864/-, on 20.02.2015, when the contempt petition came up for hearing, it was submitted by Mr.N.K.Sivakumar, learned counsel for the petitioner that a sum of Rs.37,121/- alone was paid to the petitioner, after deducting Rs.4,743/- under TDS. However, subsequently, Rs.4,743/- amount deducted was also paid to the petitioner by way of a Demand Draft bearing No.650105 dated 27.02.2015, drawn on Axis Bank, Saidapet, Chennai and it was duly acknowledged.

9. Counter affidavit has been filed by Mr.S.Jayakumar, the Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, to the Contempt Petition, wherein, he has stated that, he joined duty as Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, only on 13.02.2014, which makes it clear that the contempt notice, dated 26.02.2014, sent by the petitioner, after his joining as Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, ought to have been placed before him.

10. Counter affidavit by him, does not disclose as to whether the notice, dated 26.02.2014, by the petitioner, was brought to his attention. However, in his counter affidavit, he has stated that on the basis of the instructions of the Tamilnadu Housing Board, a letter was

addressed to the learned Government Pleader on 24.02.2014 and after many reminders, he could get the opinion only on 23.12.2014. Legal opinion obtained was submitted to the Tamilnadu Housing Board on 24.12.2014.

11. Based on the legal opinion, the board has ordered to pay the amount, after deducting TDS vide Board's sanction order No.LA1(5)/2976/2014 dated 19.02.2015. Accordingly, after deducting TDS, a sum of Rs.37,121/- was paid. Cost of Rs.10,000/- imposed in W.P.No.24465 of 2013 dated 22.11.2013, by this Court was also paid on 20.02.2015. Thus, the Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, in his counter affidavit has submitted that Rs.4,743/- deducted towards TDS, would be remitted to the petitioner.

12. On the aspect of delay, the Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, has stated that respondent has not wilfully disobeyed the orders of this Court. The delay in compliance with the directions, was neither wilful nor wanton, but due to the reasons stated above and compensation could not be paid immediately.

13. Land Acquisition proceedings has started in the

Compensation determined at Rs.41,864/- in so far as the lands measuring 4880 sq.ft., in S.No.392/1 in No.189, Sholinganallur Village, Kancheepuram District, had not been paid for nearly 20 years, despite several writ petitions. After taking note of the long struggle for nearly two decades for getting the compensation amount, this Court on 22.11.2013, ordered the said compensation amount to be paid with a cost of Rs.10,000/-.

14. Notwithstanding the directions issued to pay compensation within one month from the date of receipt of a copy of the order and even though, a registered letter dated 26.02.2014, addressed to the Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, has been acknowledged as early as on 27.02.2014, amount has not been disbursed. Though, writ petition was disposed of on 22.11.2013, legal opinion was obtained only on 23.12.2014.

15. The Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, in his counter affidavit has submitted that though, several reminders were sent to the learned Government Pleader, only on 23.11.2014, legal opinion could be obtained and that the same was forwarded to the Tamilnadu Housing Board on 24.12.2014.

Thereafter, amount has been sanctioned on 19.02.2015.

16. Though, the Special Tahsildar, Land Acquisition Unit-V, Tamilnadu Housing Board Schemes, Chennai, has stated that reminders were sent for 10 months, they could obtain opinion from the learned Government Pleader only on 24.12.2014. The entire material on record shows that from 2002, the petitioner had to file three writ petitions and also the present contempt petition, for getting the compensation and only after receipt of the statutory notice on 10.02.2015, the amount has been sanctioned, by the Tamilnadu Housing Board on 19.02.2015.

17. At every stage of the proceedings, the petitioner has to knock at the doors of this Court. They have deducted a sum of Rs.4,743/- and when the correctness of the same was questioned, the Board has made payment of Rs.4,743/- on 11.03.2015. Conduct of the Board and the respondent, in not taking prompt steps for complying with the orders of this Court in W.P.No.24465 of 2013 dated 22.11.2013, within the stipulated time in the order is evident and the attempt to put the blame on the office of the learned Government Pleader that despite several reminders were sent, opinion of the learned Government Pleader could not be obtained and thus, legal opinion was obtained only on 23.12.2014, cannot be accepted. Nothing prevented the Board or the respondent in the Contempt Application, to make the payment, reserving their right to

<https://hcservices.ecourts.gov.in/hcservices/>
file an appeal.

18. At each and every stage, the petitioner has to engage a learned counsel to file writ petitions, one after another, spend money for the preparation of the cause papers, travel to conduct the cases, wait in the corridors of this Court, for the disposal of the case, had to undergo mental agony and hardship, to receive a meagre compensation of Rs.41,864/-, from the Housing Board, for nearly 22 years, from the date of determination of the compensation amount, payable to the petitioner.

19. Only during the course of hearing of the contempt petition, Rs.4,743/- deducted under TDS has been paid. Had the petitioner been paid the compensation amount in the year 1993 itself, it would have had its value. Judicial notice can be taken that one sovereign of gold was sold at Rs.3,000/- and above, in the year 1990. Had the sum of Rs.41,864/- was paid in 1993 itself, the petitioner with that amount could have purchased 13 sovereigns of Gold. Today, the cost of one sovereign of gold is about Rs.22,000/-. From the money disbursed today, the petitioner cannot even imagine to purchase more than two sovereigns of gold. In terms of value of gold, the compensation amount of Rs.41,864/-, equivalent to the compensation amount, estimated roughly at Rs.2,86,000/-.

20. Considering the delay, in disbursement of the computation amount, though, this Court is not inclined to hold that there is any intentional disobedience, yet the agony and hardship undergone by the petitioner, have to be certainly redressed by this Court, by imposing a costs of Rs.25,000/- to be paid by the Tamilnadu Housing Board, to the petitioner within 10 days from the date of receipt of a copy of this order. The Board, which acquired the land and determined the compensation to be paid to the petitioner, in 1993, should realise the value of the money. Judicial Notice can be taken that in many cases, only after receipt of the statutory notice, orders passed by this Court, are complied with, and with humility, I state that the intent of the Legislature may be on the facts of the case, pleaded by the alleged contemnors, is not properly adverted.

21. On the facts and circumstances of the present case, I deem it fit, the Housing Board should not expect that a land owner to be, at its mercy, and issue orders, only when contempt petition is filed, and notice ordered. The Board which required the land, for any purpose, is duty bound to pay the compensation, immediately to the land owner. The Board cannot delay payment of compensation.

22. On the facts and circumstances of this case, the

institution, or even the Tahsildar, Housing Board, for the delay in disbursing the compensation, within the time stipulated in the order made in W.P.No.24465 of 2013, dated 22.11.2013. When a specific time limit is stipulated in the order of the Court, the directions contained in the order should be complied with the contention that there was no intentional violation, is different from the conduct of the respondents, in delaying the implementation of the orders of this Court. I am of the view that costs can be imposed for delayed implementation of the orders of this Court, which may be contended, as not intentional.

23. With the above directions, the Contempt Petition is disposed of.

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SD/- (I/C)
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

One CC to Mr.N.K.Sivakumar, Advocate, SR.4859

To

1.Mr.Jayakumar,
The Special Tahsildar,
Land Acquisition Unit -V,
Tamilnadu Housing Board Schemes,
Nandanam, Chennai - 35