

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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WRIT PETITION No. 847 of 2008

&

CONTEMPT CASE No.1837 of 2011

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COMMON ORDER:

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With the consent of both the parties, the Writ Petition No.847 of 2008 and C.C. No.1837 of 2011 are heard together.

Challenging the action of the respondents 1 to 3 in not fixing the market value of the dry land to an extent of Ac.0.21 cents situated in Sy.No.287 at Palamaner village as directed by the 2nd respondent in his proceedings dated 18.04.1996, the present Writ Petition came to be filed.

The facts in issue are as under :

Land to an extent of Ac.0.21 cents in Sy.No.287 of Palamaner village is a small piece of land situated in the midst of patta lands belonging to the petitioner. In the year 1985, when the petitioner came to know that it is the Government land, he made a representation on 22.08.1985 requesting the 5th respondent (M.R.O.) to send market value proposal for assigning the land in his favour. A proposal came to be sent to the 4th respondent (R.D.O.) vide proceedings in Roc.A4/1580/92 dated 27.08.1996 suggesting fixation of market value at

Rs.33,000/- per acre. The said proposal was submitted by the 4th respondent to the District Collector vide proposal in Roc.C/7216/96 dated 03.11.1996. Though the proposal was received from 4th and 5th respondent, the 3rd respondent is said to have failed to take any action. At that stage W.P.No.8751 of 1998 came to be filed challenging the action of the respondents in not fixing the market value of the land as directed by the 2nd respondent. The said Writ Petition was disposed of by this Court on 31.03.1998. The relevant portion of the order is as under :

“In such view of the matter, it would be appropriate to direct the second respondent to fix the market value of the land in accordance with the directions of the first respondent by taking the report of the Mandal Revenue Officer Dt:27.08.1996 into consideration and such other material as the District Collector may consider it appropriate for the purpose of deciding the market value of the land in question. It is clarified that it is for the District Collector concerned to take appropriate decision in the matter and fix the market value and upon such fixation the petitioner shall pay the same within the time stipulated by the District Collector. An appropriate decision in this regard shall be taken by the District Collector within ten days from the date of receipt of a copy of this order.”

As there was no response from the 2nd respondent or the 3rd respondent, the petitioner herein filed Contempt Case No.1008 of 1998 against R-2 and R-3. Basing on counter filed by the 3rd respondent, a revised proposal was sought for from the 4th respondent and the detailed report being pending consideration before the 2nd

respondent, the Contempt Case was closed on 18.08.1998. As 2nd and 3rd respondents failed to take any action after closure of contempt case, a legal notice was issued on 20.02.2006 to take appropriate decision to fix the market value in question. On receipt of the said legal notice, the 3rd respondent vide proceedings ROC/E9/2930/06 dated 21.03.2006 intimating the 2nd respondent that the proposals were submitted to the Government seeking issuance of orders, and the same was pending for consideration. While things stood thus, the 3rd respondent again asked the 5th respondent to send a report urgently. It is said that the proposals are still pending consideration with the 1st respondent. Hence, the Writ Petition is filed seeking direction to the respondents 1 to 3 to fix the market value in respect of the subject matter of the property.

Along with the Writ Petition the petitioner herein filed W.P.M.P. No.1002 of 2008 seeking a direction to the respondents 1 to 3 to fix the market value to the land in Sy.No.287 to an extent of Ac.0.21 cents situated at Palamaner village as per the orders of the 2nd respondent dated 18.04.1996 basing on proposal submitted by the respondents 4 and 5. By an order, dated 29.12.2009, this Court ordered interim direction as prayed for and accordingly directed respondents 1 to 3 to fix the market

value to the land as per the orders of the 2nd respondent dated 18.04.1996. It is said that inspite of communicating the orders to the respondents, there was no response from them, hence Contempt Case No.1837 of 2011 came to be filed. Though the contempt case is listed along with the writ petition, the learned counsel for the petitioner mainly pressed the inaction of the respondents 1 to 3 in not fixing the market value inspite of the orders passed by this Court.

At the time when the matter is taken up for hearing, the Government Pleader for Revenue placed on record a Memo No.19887/Assn.V(2)/2015 dated 04.12.2015 stating that the Government has accorded permission to the District Collector to take action for assignment of the Government land to an extent of Ac.0.21 cts in Sy.No.287 in Palamaner (V&M) to the petitioner as per B.SO (15)(10) (5) on the basis of the market value as proposed by him. The same is commented upon by Sri K.G.Krishna Murthy, learned Senior Counsel appearing for the respondents urging that the same would amount to directing the petitioner to pay the present day market value, which is contrary to the earlier orders passed by this Court.

A perusal of the entire material on record would show that on 24.07.1996 the Collector directed the 5th respondent to send proposals for alienation of the land in favour of the petitioner duly ascertaining the market value

of the land. On 27.08.1996 the 5th respondent submitted proposals through the Revenue Divisional Officer, Madanapalli to the District collector, Chittoor. When the District Collector failed to fix the market value, W.P.No.8751 of 1998 came to be filed seeking a direction to the 3rd respondent herein to fix the market value and collect the amount from the petitioner. The said Writ Petition was disposed of on 31.03.1998 directing the 3rd respondent herein to take appropriate decision in the matter by fixing the market value and upon such fixation the petitioner was directed to pay the same within the time stipulated by the District Collector. The appropriate decision was directed to be taken within 10 days from the date of receipt of copy of the order. The Contempt Case, which was initiated, came to be closed basing on the averments made therein.

Inspite of the orders passed by this Court and the Contempt Case being closed basing on the admissions made, there was no action on the part of the respondents, hence the writ petitioner filed the present Writ Petition seeking the very same relief. On 29.12.2009 an interim order was passed directing the respondents 1 to 3 to fix the market value as per the orders of the 2nd respondent basing on the proposal submitted by the respondents 4 and 5. Now proceedings are being issued by the 1st

respondent directing the Collector to take steps for assignment of land in favour of the petitioner as per the market value.

It is to be noted that the proposals for assignment of land in favour of the petitioner are pending since 1996. On 27.08.1996 the Mandal Revenue Officer submitted a proposal for fixing the market value at Rs.33,000/- per acre. Pursuant to the orders of the District Collector, the said proposal was submitted by the M.R.O., to the R.D.O. In fact on 18.04.1996 itself the Special Commissioner, Land Revenue, Andhra Pradesh, Hyderabad while dealing with a Revision filed by the petitioner against the order of Joint Collector, held that the Collector may take necessary action to collect market value from the petitioner for assignment of lands. In fact this Hon'ble court in W.P.No.8751 of 1998 dated 31.03.1998 directed the 3rd respondent i.e., the District Collector to fix the market value within ten days from the date of receipt of the copy of the said order and also directed the petitioner to pay the amount within the time stipulated by the District Collector.

It is also to be noted that no third person has any access to the said land since the same is surrounded by the patta land belonging to the petitioner. Except to harass the petitioner no other reason is forthcoming for the

authorities in delaying the matter. Though the 1st respondent failed to come out with a proposal of directing the Collector for assignment of Government land as per the market value prevailing now, but the same is only after initiation of contempt case and when the Writ Petition is being listed and adjourned from time to time.

Having regard to the circumstances stated above, as the land was assigned to the petitioner long prior and as the proposal for fixing the market value got emanated from the office of the District Collector is pending since 1996 and inspite of receiving the value of the land from the Mandal Revenue Officer through Revenue Divisional Officer the same is being kept pending for the last 20 years, the order dated 04.12.2015 came to be passed directing the Collector to take necessary action for assignment of the Government land as per market value, which in my view is unreasonable and unjust. In fact the record shows that assignment was held in favour of the petitioner vide proceedings dated 18.04.1996 by the Special Commissioner, Land Revenue which has become final. The question of 3rd respondent assigning the land as observed in the order dated 04.12.2015 is absolutely incorrect. Infact the 3rd respondent was directed to fix the market value by this Court, which he failed, inspite of contempt case being closed on an assurance of compliance.

Accordingly, the Writ Petition is allowed directing the respondents 2 and 3 to fix the market value prevailing as on 31.03.1998, within 12 weeks from the date of receipt of the copy of the order and pass appropriate orders in accordance with law by giving notice to the Writ Petitioner, in which event the petitioner shall pay the same within reasonable time. In view of the orders passed in the Writ Petition no further orders are required in the Contempt Case. Hence, the same is closed. No costs. As a sequel to it, miscellaneous petitions pending if any shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 21.12.2015

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