

HON'BLE SRI JUSTICE M.S.K. JAISWAL
CRIMINAL REVISION CASE Nos. 164 and 1140 OF 2013

COMMON ORDER:

Crl. R.C. No.164/2013 and Crl. R.C. No.1140/2013 are filed by the petitioners/A7, A8, A10 & A11; and petitioner/A9 respectively, under Section 397 read with 401 Cr.P.C, against the order of I Additional Special Judge for CBI cases, Visakhapatnam, in Crl.M.P.No.61/2012 in C.C.No.15/2004 dated 21.12.2012.

2. These two revision cases can be disposed of by a common order as both the cases arise out of the same crime.

3. The case, in brief, is that the petitioners herein are arrayed as A7 to A11 in C.C. No.15/2014 on the file of I Additional Special Judge for CBI cases, Visakhapatnam. They along with others were charge sheeted for the offences punishable under Sections 120B, 416, 420, 468 and 471 IPC and Section 13(2)/13(1)(d)(iii) of the Prevention of Corruption Act, 1988 and Section 5(2)/5(1)(d) of the Prevention of Corruption Act, 1947. A1 was the then Chairman of the Visakhapatnam Port Trust and A2 was the then Collector of Visakhapatnam District and A3 was the then Joint Collector of Visakhapatnam District. The vast extension of lands was acquired by the Visakhapatnam Port Trust for the purpose of construction of staff quarters. It is said that about Ac.15.00 cents of land was acquired. The Land Acquisition Officer/Joint Collector has awarded compensation @ Rs.800/- per square yard to the landowners, some of them are the petitioners herein. The said act of the authorities in awarding compensation at Rs.800/- per square yard is due to conspiracy in between the official accused and the unofficial beneficiaries and they got the land value enhanced by producing the documents, which were not reliable. It is on record that originally the

value of the acquired land was determined at Rs.233.35 ps per square yard by the Negotiation Committee. Subsequently, the Negotiation Committee was held by the official accused wherein A6, representing the other petitioners, has participated and has produced a certificate of valuation issued by the Sub-Registrar to the effect that the value of the land in the area is about Rs.1,800/- per square yard. After due negotiations and deliberations, the quantum of compensation was determined at Rs.1,800/- per square yard. Accordingly, approximately a sum of Rs.5.80 Crores was released, out of which a sum of Rs.3.18 Crores is said to have transferred to the account of A6, who acted as GPA holder of the other petitioners.

4. The learned counsel for the petitioners submits that the proceedings against the official accused viz., A1 to A3, who are the then Chairman, the then District Collector and the then Joint Collector have ultimately been quashed. Even though the Court below has refused to discharge them. The Investigating Agency was unsuccessful before the Apex Court. The fact remains that the official accused viz., A1 to A3, who have fixed the compensation originally at Rs.233.35 ps per square yard and subsequently enhanced to Rs.1,800/- as per the decision taken by the authorities. The learned counsel further submits that the petitioners herein are the land owners whose lands have been acquired and they set up a claim for Rs.1,800/- per square yard based on the valuation certificate issued by the Sub-Registrar of the Registration Department. It is for the authorities of the Negotiation Committee to determine as to what is the just and reasonable compensation that can be paid to the beneficiaries. When the authorities, who have fixed the compensation after due negotiations and deliberations at Rs.1800/- per square yard and accordingly, the amount was paid, that act of the official accused cannot be said to be at the behest of the petitioners, who are the land owners. When the official accused have been discharged of the crime,

continuation of prosecution against the petitioners, who are all the owners of the land, whose lands have been acquired, cannot be made and if that is done it leads to abuse of process of Court. The learned counsel rightly submits that the responsibility is on the authorities, who determined the compensation to award the just and reasonable compensation irrespective of the claim made by the beneficiaries. It is further submitted that even though the claimants have substantiated their claim at Rs.1,800/- per square yard and the same has not been awarded, the Negotiation Committee has decided the rate at Rs.800/- per square yard which the land owners accepted so as to derive the benefit of acquisition at the earliest. According to the petitioners, that amount itself is grossly inadequate taking into consideration the fact that the prevailing market value is much more higher than what has been awarded by the authorities. Be that as it may, for the purpose of prosecution of the alleged offences, what is required is that there should be material to substantiate the charges. When the official accused viz., A1 to A3 who were generally entrusted with the responsibility to conduct enquiry and determine the compensation at Rs.1,800/-. If that amount is paid, the beneficiary thereto cannot be said to have conspired or colluded with the official accused for any unjust enrichment. Since the case against the official accused viz., A1 to A3 is already quashed, continuation of the same prosecution against the petitioners/land owners cannot be permitted. In that view of the matter, all further proceedings in C.C.No.15/2004 on the file of I Additional Special Judge for CBI cases, Visakhapatnam are liable to be quashed so far as the petitioners herein are concerned.

5. In the result, both the Criminal Revision Cases are allowed and the proceedings in C.C.No.15/2004 on the file of I Additional Special Judge for CBI cases, Visakhapatnam are hereby quashed so far as the petitioners herein are concerned.

As a sequel thereto, the miscellaneous applications, if any,

pending in these Criminal Revision Cases shall stand closed.

M.S.K. JAISWAL, J

Date: 22.07.2015

MVA

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

CRIMINAL REVISION CASE Nos. 164 and 1140 OF 2013

Crl. R.C. No.164 of 2013

Between:

Smt. P. Annapurna, and others

.. Petitioners

and

State of Andhra Pradesh
Rep. by Inspector of Police
C.B.I, Visakhapatnam
Rep. by Special Public Prosecutor
High Court, Hyderabad

.. Respondent

Crl. R.C. No.1140 of 2013

Between:

P.Venkata Rao

.. Petitioner

and

State of Andhra Pradesh
Rep. by Inspector of Police
C.B.I, Visakhapatnam
Rep. by Special Public Prosecutor
High Court, Hyderabad

.. Respondent

DATE OF ORDER PRONOUNCED: 22.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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| 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 their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE M.S.K. JAISWAL

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Date: 22.07.2015

MVA