

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Contempt Case No.2116 OF 2014

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ORDER:

This Contempt Case is filed alleging violation of the order dated 08-03-2011 passed by this Court in WP No.15517 of 2009 wherein this Court set aside the order dated 10-02-2009 in proceedings No.D.Dis.no.E4/255/2009 and remanded the matter for fresh consideration by the respondent-District Collector & District Magistrate, SPSR Nellore District, and to pass orders duly taking into account the relevant facts by assigning reasons in support of the conclusions arrived at by her.

2. Brief facts of the case are:- The family of the petitioner owned land in Sy.No.675/1 of Nellore Revenue Village. An extent of 44 cents was gifted in favour of the then Nellore Municipality, while obtaining a lay-out of the land. The petitioner made representation to the then Municipality with a request to re-convey the land, by stating that it is of no use for the Municipality, on account of

existence of a canal and accordingly the Municipal Council passed a resolution, acceding to the request of the petitioner. Ultimately, the Government issued G.O.Rt.No.32, dated 05-01-2009, accepting the recommendation of the Municipal Council for allotment of 44 cents of land to the petitioner, on payment of the prevailing market value and for that purpose the District Collector was empowered to fix the market value. On verification of the contemporary sales, the respondent fixed the market value for the land, at Rs.5 crores per acre, which was held not valid as it was arrived at without any basis and accordingly issued directions to the respondent to consider the matter afresh, pass orders, duly taking into account, the relevant facts; and assign reasons, in support of the conclusions, that may be arrived by the respondent.

3. Learned counsel for the petitioner submits that even though order passed in the writ petition is as long back as in 2011, no action has been taken and it is only when this contempt case is

listed on 27-02-2015, learned Government Pleader filed counter affidavit stating that the case of the petitioner has been considered and by order dated 20-01-2015, the respondent determined the value of land Ac.0-44 cents at Rs.5,98,91,630/- at the rate of Rs.13,61,25,000/- per acre in terms of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as Section 23 of the Land Acquisition Act, 1894, is no longer in force, which provides for payment on interest on additional market value and solatium.

5. When the matter is listed on 10-04-2015, this Court observed that the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, have no application to the facts of the present case and adjourned the matter at the instance of the learned Government Pleader to enable him to advise the authorities suitably.

6. Learned counsel for the petitioner submits that the respondent passed orders afresh by

proceedings dated 24-05-2015 and fixed the marked value of the land in question at Rs.2,99,13,236/- by considering the matter under Section 23 of the Land Acquisition Act, 1894. Learned counsel submits that earlier the respondent-District Collector has issued proceedings dated 20-01-2015 fixing the market value of land Ac.0-44 cents at Rs.5,98,91,630/- at the rate of Rs.13,61,25,000/- per acre in terms of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which goes to show that the authorities intentionally circumvented the orders passed by this Court. In support of his contentions, learned counsel relied on the decisions of the Supreme Court in ***Maninderjit Singh Bitta v. Union of India***^[1] & ***Gurminder Singh Kang v. Shiv Prasad Singh***^[2].

7. Learned Government Pleader representing the respondent submits that the petitioner himself contended that the issue involved in the case is

governed by Section 23 of the Land Acquisition Act, 1894, the respondent, on re-consideration of the matter, fixed the market value in terms thereof and passed orders dated 24-05-2015 and, therefore, no exception can be taken to the steps taken by the respondent and the order of this Court has been complied with. He also submits that the correctness or otherwise of the order dated 24-05-2015 cannot be subject matter of this contempt case. It is further submitted that the respondent has given reasons in the order dated 24-05-2015, which were lacking in the earlier order and thus, the respondent has rectified the mistake and as such there is no willful violation of the orders passed by this Court. For the proposition that merits of the order dated 24-05-2015 cannot be gone into in the contempt case, he relied on the decision of the Supreme Court in **J.Parihar v. Ganpat Duggar**^[3].

8. It is to be seen that this Court while allowing the writ petition has set aside the market value

fixed by the respondent vide proceedings dated 10-02-2009 directed to pass orders afresh duly taking into account the relevant facts and also assign reasons in support of the conclusions that may be arrived at by the respondent. On earlier occasion, basing on the valuation at Rs.9,000/- per sq. yard, and adding other amounts as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the value of land Ac.0-44 cents was fixed at Rs.5,98,91,630/-, which is rectified on proper advise and the revised rate of the said land is fixed at Rs.2,99,13,236/- in terms of Section 23 of the Land Acquisition Act, 1894. Though the learned counsel for the petitioner states that as per the certificate issued by the concerned Sub-registrar, the market value is Rs.2,000/- per square yard, the respondent has taken Rs.9,000/- per square yard, it is seen that basic value of the land has been changing as is evident from the counter averments, the land rate is Rs.9,000/- per sq. yard as on 05-01-2009 and Rs.12,000/- per sq. yard as

on 08-03-2011, which is the date of the order passed in the writ petition. The decisions relied by the learned counsel for the petitioner cannot be made applicable to the facts of the case on hand, as respondent bona-fide erred in adopting the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, instead of Section 23 of the Land Acquisition Act, 1894, which in fact was rectified and passed orders thereon.

9. Inasmuch as the order of this Court has been complied with, no further steps need be necessary in this contempt case. If the petitioner is so aggrieved with the correctness or otherwise of the order dated 24-05-2015, it is open for the petitioner to challenge the same in appropriate forum. In the result, the contempt case is dismissed. As a sequel thereto, miscellaneous applications, if any pending, shall stand closed.

A.RAJASHEKER
REDDY, J

Dated :: 14-03-2016
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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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DATED 14-03-2016

[\[1\]](#) (2012) 1 Supreme Court Cases 273
[\[2\]](#) (2013) 11 supreme Court Cases 332
[\[3\]](#) (1996) 6 SCC 291