

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.C.No.13 of 2015 and Review WPMP.No.7817 of 2015
in WP.No.26649 of 2009

ORDER:

Heard the learned counsel for the petitioner in the Contempt Case and the learned Government Pleader for Land Acquisition for the petitioners in Review W.P.M.P.No.7817 of 2015 apart from perusing the material available before the Court.

2. C.C.No.13 of 2015, filed by the petitioner in WP.No.26649 of 2009, complains violation of the order dated 12.06.2014 passed by this Court in the said Writ Petition, where as the Review W.P.M.P.No.7817 of 2015, filed by the respondents 1, 3, 4, 5 and 6 in the said writ petition, prays for review of the said order.

3. Petitioner in Contempt Case filed the writ petition, questioning the alleged inaction on the part of the authorities in paying the compensation to him in respect of the property, admeasuring Ac.0-11 gts of land situated in Sy.No.1066 of Bhongir Village and Mandal, Nalgonda District. This Court, by way of an order dated 22.06.2014, disposed of the writ petition, directing the authorities to take immediate action for payment of compensation to the writ petitioner by pressing into service the provisions of the relevant legislation for acquisition with a further direction to complete the entire exercise within a period of three months from the date of receipt of the order. Alleging wilful disobedience of the said order, writ petitioner is before this Court by way of CC.No.13 of 2015 and seeking review of the said order, Review WPMP.No.7817 of 2015 has been filed by the respondents 1, 3, 4, 5 and 6 in the writ petition.

4. For the sake of convenience and for brevity this Court deems it appropriate to consider the review application as the review would be decisive for consideration of the contempt case.

5. Learned Government Pleader for Land Acquisition for the State of Telangana, appearing for the Review petitioners, reiterating the grounds of review, contends that the writ petitioner has no valid title to the subject land situated in Sy.No.1066 of Bhongir Village and that the authorities did not issue Form XIII-B Certificate in respect of the said land as per the provisions of Section 5-A of the Record of Rights in Land in Pattedar Passbooks Act, 1971. It is further submitted by the learned Government Pleader that though the writ petitioner made an application on 13.11.2005, seeking validation of Saada Sale Deed pertaining to the lands in Sy.Nos.884, 886 and 1066 of Bhongir village, Mandal Revenue Officer issued certificate under Section XIII (B) of 1971 Act only for the lands in Sy.Nos.884 and 886, but not for the land in Sy.No.1066 and that the said Survey number was deleted. It is further submitted that the authorities refused to validate the Saada Sale Deed for the land in Sy.No.1066 on the ground of existence of houses in the subject land and lack of possession to the petitioners and though the petitioners have the knowledge of all these things, he filed the writ petition without disclosing the same.

6. On the contrary, it is vehemently contended by Sri Buchi Babu, learned counsel for the writ petitioner/respondent in the review application that in the absence of any error apparent on the face of the record, the present review is not maintainable under the provisions of Order 47 Rule 1 of the Code of Civil Procedure; that there is no denial of title of the petitioner and that there is no document to show the occupation of the Government; that the authorities issued XIII-A certificate and directed the writ petitioner to pay

the stamp duty and registration fee on 05.07.2006 and the writ petitioner paid the same. It is further contended that having issued all these proceedings, now it is not open for the authorities to refuse to pay the compensation to the petitioner.

7. In the main writ petition, the respondents 3 to 5 filed counter, deposed by the Revenue Divisional Officer, Bhongir, stating that on receipt of the legal notice issued by the counsel on 22.08.2009, the disputed land was got surveyed and demarcated by the Mandal Surveyor, Bhongir and that the Tahsildar, Bhongir vide Lr.A/9024/99, dated 13.10.2009, informed that an extent of Ac.0-11 gts out of Sy.No.1066 of Bhongir Mandal Village is covered by Area hospital, Bhongir. The said counter also averred that no requisition was received, as such, no proceedings were initiated. It is the reality that no other respondents filed counter.

8. In the present review, it is the case of the authorities that in the absence of any Form 13-B and 13-C Certificates, petitioner has no right in the property as per Section 5-A read with Rule 22 of the Rules framed under the 1971 Act.

9. On the directions of this Court, the learned Government Pleader for Land Acquisition secured the relevant records and placed the same before this Court. The said record discloses that on 05.07.2006, there is an office note stating that on perusal of record Sy.No.1066; Ac.0-11 gts covered with houses and huts and hence after deleting Sy.No.1066, 13-B certificate may be issued. The record further shows that vide proceedings No.A/703/2006, dated 29.08.2006, the Mandal Revenue Officer, Bhongir issued 13-B Certificate in favour of the petitioner only for Sy.Nos.884 and 886, but not Sy.No.1066.

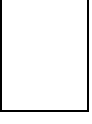
10. It is the case of the review petitioners that unless there is 13-B Certificate, the petitioner herein cannot claim any right on the property nor he can claim compensation. The Kasara Pahani for the year 1994-1995 shows the name of one Smt.Yedla Narasimsha as a Pattedar and the review petitioners herein also dispute the possession of the writ petitioner.

11. Along with the writ petition, writ petitioner filed only 13-A certificate, but not 13-B Certificate admittedly as rightly pointed out by the learned Government Pleader. The learned counsel for the petitioner submits that since the authorities asked to pay the Stamp duty and registration fee and as the same was also paid, the relief in favour of the writ petitioner cannot be denied. In the considered opinion of this Court, all these aspects including the legal implications need to be gone into, as such, this Court deems it appropriate and apposite to review the order and recall the same and restore the writ petition for fresh disposal.

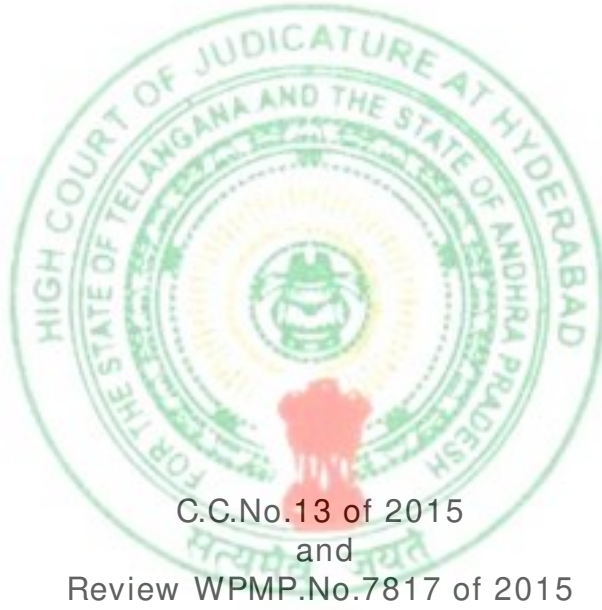
13. Accordingly, the Review WPMP.No.7817 of 2015 is allowed and the order dated 12.06.2014 passed in W.P.No.26649 of 2009 is recalled and the writ petition is restored to file for fresh disposal. Office to post the writ petition for hearing before the Court having the provision. As a consequence of the same, C.C.No.13 of 2015 is dismissed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 24 .08.2017
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



C.C.No.13 of 2015
and
Review WPMP.No.7817 of 2015

Dated: .08.2017

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