

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**

**AND**

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

Writ Appeal No.1652 of 2005

**Judgment:** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 20134 of 2003 dated 9.2.2004. The appellant herein is the respondent in the writ petition.

The respondents-writ petitioners invoked the jurisdiction of this Court questioning the action of the Land Acquisition Officer, in not paying them compensation for the lands acquired as detailed in the writ petition as being arbitrary and illegal. The fact that the subject lands were assigned in favour of the respondents herein is not in dispute. It is also not in dispute that a notification, under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'), was issued on 6.3.1984 to acquire the lands and, on its being set aside, a fresh notification was issued on 4.1.1988. Thereafter, a notification under Section 48(1) was issued on 18.7.1990 in respect of the certain lands deleting them from the purview of land acquisition. On such withdrawal being challenged in W.P. No.5920 of 1991, this Court held that the assignees of Government land were entitled to be paid compensation whenever the land was acquired for public purposes. The lands of the respondents-writ petitioners were, however, not notified under Section 48(1) withdrawing land acquisition proceedings. In the award passed by him, the Land Acquisition Officer held that the assignees had not perfected their title over the land. The compensation payable, in

terms of the award, was remitted to the Government. Aggrieved thereby, the present writ petition.

In the order under appeal, the learned Single Judge observed that the assignees were also entitled to be paid compensation whenever their lands were acquired for a public purpose. The award, in so far as it declared that the writ petitioners were not entitled to be paid compensation for the lands assigned to them, was set aside and the appellant herein was directed to pay compensation, as determined by him under the award, within a period of six weeks.

Learned Government Pleader for Land Acquisition would submit that the respondents-writ petitioners herein had violated the conditions of assignment, and had not paid the instalments fixed by the Government. Even if, as is now contended before us for the first time, the respondents-writ petitioners had violated the conditions of assignment, the only course open to the Government was to cancel the assignments on that ground, and resume possession of the assigned lands. Admittedly, neither has the assignments been cancelled nor have the lands been resumed and, consequently, the assignments continued to remain in force till an award was passed by the Land Acquisition Officer. While it is no doubt true that the Government cannot acquire its own lands, however, as held by a larger Bench of this Court in **Land Acquisition Officer vs. Mekala Pandu**<sup>1</sup>, the assignees are entitled for payment of *ex gratia* on par with the compensation payable under the Act. While the learned Government Pleader would contend that the judgment in **Mekala Pandu**<sup>1</sup> needs re-

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<sup>1</sup> 2004 (2) ALD 451 (LB)

consideration, the said judgment of a seven Judge Bench of this Court binds us. We see no reason therefore, to take a view different from that of the larger Bench in **Mekala Pandu**<sup>1</sup>.

Following the judgment of the Larger Bench in **Mekala Pandu**<sup>1</sup>, and in terms thereof, this writ appeal is dismissed, and the order of the learned Single Judge is affirmed. However, in the circumstances, without costs.

Miscellaneous Petitions pending, if any, shall also stand dismissed.

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(**RAMESH RANGANATHAN, ACJ**)

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(**Dr. SHAMEEM AKTHER, J**)

13<sup>th</sup> February, 2017

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