

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Contempt Case No.438 of 2017

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

This Contempt Case is filed alleging violation of the order passed by us in PIL No. 23 of 2017 dated 7.2.2017. In the said order, we had observed that, save in cases where the State had invoked the urgency clause under Section 41, the 2013 Act disabled the State from interfering with the possession of the owners of the land, till an award was passed and possession was taken thereafter; till then, the rights of the land owners to utilize their lands, in any manner they chose, could not be scuttled; and the allegation of violation of the conditions stipulated in Section 19(2), before issuing a declaration under Section 19(1) of the Act, could be examined only after a counter-affidavit was filed by the respondents. The respondents were directed not to interfere with the possession of those, whose lands had been declared under Section 19(1) of the Act for acquisition, i.e of an extent of Acs.240.00 of land, pending further orders.

After this order was passed, the respondents appear to have passed an award on 31.3.2017, and except for a few of the 119 awardees, all the others received compensation pursuant thereto. While matters stood thus, the Chief Commissioner of Land Administration (CCLA) passed an order on 26.4.2017 allowing the respondents to enter the subject land and take possession thereof, questioning which some of the land owners filed W.P. No.16811 of 2017 and sought suspension of the proceedings of the CCLA. A

learned Single Judge of this Court, by his order dated 15.5.2017, dismissed the WPMP holding that the petitioners had failed to make out a *prima facie* case; since there was an award, the petitioners were entitled to agitate their grievance under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the 2013 Act”); and it could not be held that the respondents have resorted to unlawful measures.

Aggrieved thereby, W.A. No. 638 of 2017 was filed and a Division Bench of this Court, by its order dated 11.5.2017, observed that the appellants had not made out a case of balance of convenience in their favour; they had failed to establish irreparable loss; and, therefore, the interim order passed by the learned Single Judge did not necessitate interference. The WAMP was dismissed, and both the Writ Appeal and the Writ Petition were directed to be listed along with PIL No. 23 of 2017.

Aggrieved thereby the land owners, who had earlier filed W.A. No. 638 of 2017, filed SLP(C) SR No. 015751 of 2017 before the Supreme Court, and the said SLP was dismissed as withdrawn by order dated 17.7.2017. Except for thirteen (13), all the other land owners are said to have received compensation even before the jurisdiction of the Supreme Court was invoked. Subsequently, even the petitioners before the Supreme Court and other land owners are said to have received compensation under protest, and to have handed over possession of these lands to the respondents.

The order, violation of which is alleged in the Contempt Case, no doubt required the respondents not to interfere with the

possession of those, whose lands had been declared under Section 19(1) of the 2013 Act for acquisition, i.e of an extent of Acs. 240.00 of land. These directions were issued by this Court after noticing that, except where the State invokes the urgency clause under Section 41, the 2013 Act disabled the State from interfering with the possession of the owners of the land till an award was passed.

W.P. (PIL) No.23 of 2017 was filed in public interest, espousing the cause of the land owners. It is the respondents who were enjoined from forcibly taking possession of the subject lands from the land owners. The interim order in PIL No. 23 of 2017 dated 7.2.2017, passed to protect the interests of the land owners, did not disable them from receiving the amount awarded as compensation, and from delivering possession of the subject lands to the respondents. The very fact that even the 13 land owners, who chose not to accept the compensation earlier, had subsequently received compensation, albeit under protest, and had delivered vacant possession of the subject land to the respondents, would show that all the land owners had received the awarded compensation and had thereafter delivered possession.

The interim order passed by us disabled the respondents from taking forcible possession, and did not disable the land owners from voluntarily delivering possession of the land, if they so choose, after receiving the awarded compensation. The order passed in the public interest, of protecting land owners from being dispossessed, cannot be understood as disabling those land

owners themselves from receiving compensation in terms of the award, and delivering vacant possession of the subject land. While it would have been appropriate for the respondents to have sought vacation of the order in PIL No.23 of 2017 dated 07.02.2017 before taking possession of the subject land from the land owners, and their failure to do so can be construed as a violation of the order of this Court, the jurisdiction, which this Court exercises under the Contempt of Courts Act, to punish the contemnors is only if the order is wilfully and deliberately violated. In the facts of the present case where all the land owners have received compensation pursuant to an award, and have vacated possession of the subject land, we see no reason to proceed against the respondents and to punish them under the Contempt of Courts Act, at the behest of the petitioner, who has filed this Writ Petition in the public interest of protecting the interests of these land owners.

The Contempt Case is, therefore, closed. Miscellaneous Petitions pending, if any, shall also stand closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

15th December, 2017

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Date: 15.12.2017

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