

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CONTEMPT CASE No.1168 of 2010

O R D E R :

Heard counsel for petitioner and the Assistant Government Pleader for Revenue(Assignment) for respondents.

2. The land admeasuring Acres 4.38 guntas in survey No.449/2 of Sarampalli Village, Sircilla Mandal, Karimnagar District, which was assigned to the petitioner along with other lands on 29.06.1976, was taken by the respondents without making payment of compensation at full market value. There were, according to the petitioner, even constructions therein.

3. Petitioner questioned the same in W.P.No.18784 of 2005.

4. This Court by order dt.09.07.2009 allowed the said Writ Petition. It was held therein that even if the State resumes assigned land, they should pay compensation equivalent to that of market value as is decided under the provisions of the Land Acquisition Act, 1894. It directed the respondents to pay compensation as per law within a period of four months from the date of receipt of the order.

5. Alleging willful and deliberate disobedience of the said order, this Contempt Case is filed.

6. The Tahsildar(FAC), Thangallapalli Mandal, Rajanna Sircilla District, by name S.Raju, filed a counter stating that the District Collector passed orders on 26.02.2011 fixing Rs.1,28,700/- as exgratia payable to the petitioner, that the petitioner refused to receive the same, and the same was kept in the account of Revenue Divisional Officer, Sircilla. It is further contended that petitioner being an assignee is only entitled to exgratia as per G.O.Ms.No.1307 dt.23.12.1993, and that the amount of Rs.1,28,700/- was the prevailing market value of the land.

7. Having regard to this counter affidavit, the Contempt Case was admitted on 27.03.2017 and notice in Form-I was issued to respondents 1 to 3.

8. Thereafter, they did not appear on 24.04.2017, on which date they were to appear.

9. This Court then directed the Government Pleader for Revenue(Assignment) to inform the correct address of respondents 1 to 3 to the counsel for petitioner and also the name of the persons, who are holding posts held by the respondents 1 to 3 at the time when the Contempt Case was filed.

10. Subsequently, CA.No.457 of 2017 was filed to implead respondents 5 to 7 as respondents in the Contempt Case

stating that they were presently holding the posts held by respondents 1 to 3, who had retired from service.

11. The said application was allowed on 22.06.2017 and notices were issued to them.

12. When the matter was again listed on 28.07.2017, the Government Pleader for Revenue(Assignment) appearing for respondents had handed over a cheque bearing No.904509 dt.27.07.2017 for Rs.2,45,059/-, drawn in the name of the petitioner on State Bank of Hyderabad, to the counsel for petitioner. This was received by the counsel for petitioner without prejudice to his right to contest the Contempt Case.

13. The Government Pleader for Revenue(Assignment) has also produced proceedings dt.23.01.2011 of the Land Acquisition Officer-cum-Revenue Divisional Officer, Sircilla (6th respondent herein) indicating the basis for determination of the amount payable to the petitioner.

14. A reading of the same shows that the 6th respondent relied on G.O.Ms.No.1307 dt.23.12.1993, which provided for payment of exgratia to assignees of land, whose land is taken over by the Government. Though in page 2 thereof, several sale transactions from 1999 to 2002 are referred to, and though the petitioner was dispossessed from the land on 15.07.2002, curiously, transaction pertaining to the year 1999 vide document No.2349 of 1999 dt.17.11.1999 (where

under property was sold @ Rs.20,000/- per acre) was relied upon, ignoring all the other 17 transactions including the one which is close to the date on which the petitioner was dispossessed i.e., document No.794 of 2002 dt.16.05.2002 (where land was sold @ Rs.33,120/- per acre). Compensation was fixed @ Rs.20,000/- per acre for Acs.4.38 guntas of Rs.99,000/- and in addition 30% solatium thereon of Rs.29,700/-, coming to Rs.1,28,700/- was calculated; and on this 9% interest from 22.06.2011 to 25.11.2012 of Rs.11,583/- and @ 15% from 26.02.2012 to 31.07.2017 of Rs.1,04,776/- was added to arrive at the figure of Rs.2,45,059/-, which amount had been handed over as mentioned above.

15. The reason for choosing the transaction document No.2349 of 1999 dt.17.11.1999 indicated in the proceedings dt.23.1.2011 of the 6th respondent is that the “soil texture of the said land was similar to the lands of the petitioner”. This is an absurd reasoning, since the only criteria for assessing market value of land is “value for which land close to acquired land is sold and the nature of land should be same”. The soil texture is totally irrelevant consideration.

16. Also the petitioner’s assigned land was dry, but there were transactions referred to in the proceedings dt.23.01.2011 of dry lands; some of these transactions relate to lands which are within 2 Kms., from the land of the

petitioner; but no valid reason is given for ignoring these transactions.

17. In this view of the matter, I am satisfied that though this Court directed payment of “compensation equivalent to market value of the land” which had been assigned to the petitioner and which had been taken over by the Government, deliberately ignoring the said direction (which is in conformity with the Larger Bench judgment of this Court in ***Land Acquisition Officer-cum-R.D.O., Chevella Division, Hyderabad and others v. Mekala Pandu and others***¹) exgratia as per G.O.Ms.No.1307 dt.23.12.1993 alone was paid and what was offered and now paid was not “compensation”.

18. In this view of the matter, I am of the opinion that the 6th respondent has committed Contempt of Court by willfully disobeying the order dt.09.07.2009 in W.P.No.18784 of 2005.

19. Accordingly, the Contempt Case is allowed and the 6th respondent is granted two weeks time from the date of receipt of a copy of this order to compute compensation as per the decision in ***Mekala Pandu***’s case(1 supra) and as directed in W.P.No.18784 of 2005 on 09.07.2009 to the petitioner and then pay to the petitioner the computed amount after deducting the amount of Rs.2,45,059/- already paid, within a period of two (02) weeks of such computation. The 6th respondent is also sentenced to suffer one month Simple

¹ 2004(2) ALT 546 (L.B.)

Imprisonment with fine of Rs.1,500/- which shall be paid within a period of four (04) weeks from the date of receipt of a copy of this order. Petitioner shall deposit subsistence allowance @ Rs.300/- per day for the said period, within a period of four (04) weeks from the date of receipt of a copy of this order. The sentence of imprisonment imposed on the 6th respondent is suspended for a period of six (06) weeks from today.

20. Consequently, miscellaneous petitions pending if any shall stand closed.

13th October, 2017.
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M.S.RAMACHANDRA RAO, J

