

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

Cont.P.No.810 of 2018

R.Arivanandham

...Petitioner

Versus

Mr.R.Sugumar,
Land Acquisition Officer/
District Revenue Officer,
Collectorate, Salem,
Salem District.

...Respondent

This Contempt Petition is filed under Section 11 of Contempt of Court Act, 1971 praying to punish the respondent herein for his wilful disobedience and non-compliance of the orders of this Hon'ble Court made in W.P.No.17571 of 2017, dated 25.01.2018 under the provisions of Contempt of Courts Act.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.S.R.Rajagopal,
Additional Advocate General - IX
assisted by
Mr.R.Bala Ramesh,
Special Government Pleader &
Mr.M.Elumalai,
Government Advocate

ORDER

The petitioner herein has come forward with this Contempt Petition to initiate contempt on the ground that the respondent/Authority concerned was refusing to comply with the order of this Court dated 25.01.2018.

2. The operative portion of the aforesaid order reads:

"8. In conclusion, this petition is allowed with a modification that the land acquisition authority shall issue appropriate notices to the petitioners for holding an enquiry for determining the compensation payable within a period of four weeks from the date of receipt of a copy of this order, and pass an award within four months in accordance with spirit behind Section 105-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013), which make relevant the application of provisions intended for payment of compensation and providing rehabilitation or resettlement under Sections 26 to 30 of the said Act. The respondent shall not take possession of the property, or disturb their possession unless at least 50% of the award amount is paid. No costs. Consequently, connected Miscellaneous Petitions are closed."

3. Mr.S.R.Rajagopal, the learned Additional Advocate General - IX representing the respondents would instantly bring it to the notice of the Court that the core of the allegation made in paragraph No.3 of the affidavit filed in support of the Contempt Petition reads as follows:

"3.When this Hon'ble Court passed orders to conduct an enquiry for fix the compensation u/s.26 to 30 of the Act 30 of 2013, as per the said Act the

District Collector alone competent authority for conduct enquiry, but the respondent herein, who issued Notice under State Highways Act he going to conduct the enquiry is clearly disobeyed this Hon'ble Court order."

4. He also brought to the notice of the Court Rule 2(d) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2017, where, "Collector" is defined to include any officer not below the rank of Tahsildar specially designated by the Government. The learned Additional Advocate General also brought to the notice of the Court a Memorandum signed by several land owners including the present petitioner dated, 27.03.2018, addressed to the District Revenue Officer, Collectorate, Salem, to the effect as per Section 26 to 30 of the Central Act 30 of 2013, enquiry shall be conducted only by the Collector.

5. The learned counsel for the petitioner however, would contend that the petitioner was not even enquired pursuant to the direction of the Court whereas, the Learned Additional Advocate General on instruction would state that the petitioner refused to participate in the enquiry and it is in that context he circulated a copy of the Memorandum hereinabove stated.

6. Before this Court, the learned counsel for the petitioner canvass two points:

a) Firstly, it is alleged in paragraph No.3 of the affidavit of the petitioner which is already extracted above and

b) Secondly, is the persistent allegation that no enquiry is being conducted by the District Revenue Officer.

7. The response of the Additional Advocate General is along the predictable lines. He submitted that the petitioner refused to participate in the enquiry. In view of the Rules framed, more particularly, the definition of the Collector as has been made in Rule 2(d), much of the anxiety of the petitioner should have been addressed. At the end of the day, this Court witnessed a scenario where a statement is made on behalf of the Authorities that they would comply the orders of this Court *stricto sensu* both in letters and spirit, whereas, the petitioner is seen insisting who should pass the award? Strictly speaking, this is an artificial impasse, but this, in the context, is a distraction.

8. The learned counsel for the petitioner expressed the utmost willingness of the petitioner to participate in the enquiry and the respondent too expressed his anxiety to have the enquiry completed in accordance with law.

9. The learned counsel for the petitioner further submitted that the petitioner would be appearing before the District Revenue Officer on 07.05.2018 at 11:00 a.m in the Office of the District Revenue Officer, Collectorate, Salem. In the matter of fixation of market value of the property, the Authority shall receive such evidence as are made available by the petitioner and quantify the compensation strictly in accordance with law.

10. In view of the above direction, nothing survives in this Contempt Petition and the same is closed.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)
//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)
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