

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.8150 OF 2008

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners requesting to issue a Writ of Mandamus declaring the action of the 1st respondent/Special Deputy Collector (Land Acquisition) in issuing the Endorsement, dated 15.02.2005, in R.C.B.124/2003 as arbitrary, illegal and violative of Articles 14, 21 and 300-A of the Constitution of India and consequently, set aside the same and direct the respondents to pay the enhanced compensation to the lands of the petitioners on par with the owners of the land in Survey no.690/1 of Vanala Village in the light of the judgment, dated 01.05.1997, in A.S.Nos.1966, 1968 and 1971 of 1996 on the file of this Court.

2. I have heard the submissions of the learned counsel for the petitioners and of the learned Government Pleader for Land Acquisition, appearing for the respondents. I have perused the material record.

3. Learned counsel for the petitioners submits as follows:

“The lands of the petitioners’ father were acquired by following the provisions of the Land Acquisition Act, 1894 (for brevity, ‘the Act’), and an Award was passed. Some of the land owners, whose lands were also acquired, and which are covered by Gazette notification No.204, dated 20.04.1985, made representations to the 2nd respondent/Special Deputy Collector (Land Acquisition) – cum – Land Acquisition Officer seeking references under Section 18 of the Act. The 2nd respondent, accordingly, made references to the civil Court and accordingly, the references gave raise to O.P.No.3362 of 1987 and batch. The said references, in the said

OPs were answered enhancing the compensation for the said acquired lands from Rs.23,000/- to Rs.49,000/- per acre and awarding other statutory benefits. The said judgment of the civil Court, dated 24.07.1992, in O.P.No.3362 of 1987 and batch was confirmed by this Court by judgment, dated 01.05.1997, passed in the appeals preferred by the 1st respondent *vide* A.S.nos.1966, 1968 & 1971 of 1996. When the petitioners' father and others made a request to pay compensation on par with the other land owners in the light of the afore-stated judgments of the civil Court, the 1st respondent disposed of the applications, pending disposal of the first appeals. Therefore, the petitioners' father along with others filed W.P.No.3025 of 1995 before this Court. This Court, by an order, dated 07.04.1999, disposed of the said Writ Petition and directed the respondents to pass an award under Section 28-A of the Act in the light of the judgment, dated 01.05.1997, of this Court in A.S.Nos.1966, 1968 and 1971 of 1996, within eight weeks from the date of receipt of a copy of the said order in the said Writ Petition. Despite the said orders of this Court, the compensation amounts were not duly paid to the petitioners. The civil Court, *vide* orders passed in batch of OPs, enhanced compensations in respect of the lands acquired in the same village and fixed the compensations @ Rs.49,000/- per acre, irrespective of the category of the lands. Therefore, the petitioners are also entitled to the same benefit. In that view of the matter, the Endorsement, which is impugned in this Writ Petition, is liable to be set aside."

4. Learned Government Pleader for Land Acquisition submits as follows:

"In the impugned Endorsement, it is categorically stated that no awardee under the instant award had approached the concerned officer

and made a request to refer the matter under Section 18 of the Act to a civil Court for enhancement of compensation. Admittedly, the notification and award of the other case, on which the petitioners are relying upon, are different & distinct from the notification & award in the instant case. Therefore, the petitioners are not entitled to claim any enhanced compensation on par with the claimants in the other cases covered by the decision of the civil Court and the judgment of this Court in A.S.Nos.1966, 1968 and 1971 of 1996.”

5. However, learned counsel for the petitioners submits as follows: The lands in the village were acquired under separate notifications and separate awards were passed, for convenience. Compensations awarded were enhanced in respect of certain lands in the same village, irrespective of the categories of the lands, notwithstanding the fact that in such cases also, the notifications and awards are distinct and different. In view of the provision of Section 28-A of the Act and the earlier orders of this Court in W.P.No.3025 of 1995, the petitioners are entitled to enhanced compensation. Any endorsement or decision taken contrary to the orders of this Court is invalid and is, therefore, liable to be set aside.

6. In this context, it is apt to extract the relevant findings/observations in the decision in **Commissioner, Karnataka Housing Board v. C. Muddaiah** [(2007) 7 SCC 689], which are as follows:

"We are of the considered opinion that once a direction is issued by a competent Court, it has to be obeyed and implemented without any reservation. If an order passed by a Court of Law is not complied with or is ignored, there will be an end of Rule of Law. If a party against whom such order is made has grievance, the only remedy available to

him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been issued by the Court. In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice. The argument of the Board, therefore, has no force and must be rejected. The matter can be looked at from another angle also. It is true that while granting a relief in favour of a party, the Court must consider the relevant provisions of law and issue appropriate directions keeping in view such provisions. There may, however, be cases where on the facts and in the circumstances, the Court may issue necessary directions in the larger interest of justice keeping in view the principles of justice, equity and good conscience. Take a case, where ex facie injustice has been meted out to an employee. In spite of the fact that he is entitled to certain benefits, they had not been given to him. His representations have been illegally and unjustifiably turned down. He finally approaches a Court of Law. The Court is convinced that gross injustice has been done to him and he was wrongfully, unfairly and with oblique motive deprived of those benefits. The Court, in the circumstances, directs the Authority to extend all benefits which he would have obtained had he not been illegally deprived of them. Is it open to the Authorities in such case to urge that as he has not worked (but held to be illegally deprived), he would not be granted the benefits? Upholding of such plea would amount to allowing a party to take undue advantage of his own wrong. It would perpetrate injustice rather than doing justice to the person wronged. We are conscious and mindful that even in absence of statutory provision, normal rule is 'no work no pay'. In appropriate cases, however, a Court of Law may, nay must, take into account all the facts in their entirety and pass an appropriate order in consonance with law. The Court, in a

given case, may hold that the person was willing to work but was illegally and unlawfully not allowed to do so. The Court may in the circumstances, direct the Authority to grant him all benefits considering 'as if he had worked'. It, therefore, cannot be contended as an absolute proposition of law that no direction of payment of consequential benefits can be granted by a Court of Law and if such directions are issued by a Court, the Authority can ignore them even if they had been finally confirmed by the Apex Court of the country (as has been done in the present case). The bald contention of the appellant-Board, therefore, has no substance and must be rejected."

The ratio in the decision applies on all fours to the present case. This Court is of the considered view that when once a direction by way of writ order was issued by this Court, it has to be obeyed and implemented without any reservation.

7. From a plain perusal of the order of this Court in the afore-stated W.P.No.3025 of 1995, it appears that this Court has already recorded a finding in favour of the petitioners' father and other petitioners therein that they are entitled to the relief claimed; and, this Court further directed the respondents to pass an award under Section 28-A of the Act in the light of the judgment of this Court in A.S.Nos.1966, 1968 and 1971 of 1996 within the time frame mentioned therein. In the face of the orders of this Court, the Endorsement is, therefore, unsustainable.

8. On the above analysis, this Court finds that the Writ Petition deserves to be allowed.

9. In the result, the Writ Petition is allowed as prayed for. The respondents are directed to complete the necessary exercise within three months from the date of receipt of a copy of this order.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

M. SEETHARAMA MURTI, J

October 04, 2018

Note: Issue C.C. in one week.
B/O.MD

