

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

Contempt Appeal No.15 of 2018

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

Heard learned Government Pleader for Revenue (Assignment), appearing on behalf of the appellant (respondent No.2 in the contempt case), and Sri M.S.Prasad, learned Senior Counsel appearing on behalf of the respondent- petitioner and, with their consent, the Contempt Appeal is disposed of at the stage of admission. This appeal is preferred under Section 19 of the Contempt of Courts Act (for short "the Act") against the order passed by the Learned Single Judge in C.C.No.1471 of 2017 dated 03.04.2018. The Contempt Case, in C.C. No.1471 of 2017, was filed alleging wilful and deliberate violation of the order passed in W.P.No.20140 of 2011 dated 09.03.2017, and to punish the respondents therein under Sections 10 and 12 of the Act.

In his order, in W.P.No.20140 of 2011 dated 09.03.2017, the Learned Single Judge rejected the contention, urged on behalf of the appellant, that he would only be liable to pay ex-gratia as per G.O.Ms.No.1307 dated 23.12.1993 to the respondent-writ petitioner. The Learned Single Judge held that, as per the judgment of a Larger Bench of this Court in **LAO-cum-Revenue Divisional Officer, Chevella Division vs. Mekala Pandu**¹, if the assignees of land are deprived of the land by the State, such assignees are entitled to compensation at the market value. While allowing the Writ Petition, the Learned Single Judge directed the appellant herein to pay compensation, to the respondent-writ petitioner, for an extent of Ac.2.62 cents in Survey No.88/2 of Thonduru Village at the prevailing market value on 29.09.2008, instead of ex-gratia, within a period of 12 weeks.

¹ 2004(2) ALD 451 (LB)

Aggrieved thereby, the appellant herein filed W.A.No.941 of 2017 which was dismissed by us by our order dated 22.08.2017. In the said order we had held that, while the Tahsildar had held that ex-gratia would be paid in terms of G.O.Ms.No.1307 dated 23.12.1993, the Learned Single Judge had rightly observed that, in the light of the law declared by the Larger Bench of this Court in **Mekala Pandu¹**, the assignee was entitled to be paid compensation as per the market rate prevailing on the date of resumption of the land.

Thereafter, the Sub-Collector, Tirupati submitted a report to the District Collector, Chittoor on 05.03.2018 informing him that the basic value, for agricultural lands of Thonduru Village, was Rs.44,000/- per acre; and the average sale price, of the sales statistics from 30.09.2005 to 29.09.2008, was Rs.3,00,000/- per acre. The Sub-Collector opined that the prevailing market value as on 29.09.2008 was Rs.3,00,000/- per acre which was just and reasonable. Thereafter, the District Collector, Chittoor passed an order on 07.03.2018 fixing the market value of the land, as on 29.09.2008, at Rs.3,00,000/- per acre for an extent of Ac.2.62 cents of land at Thonduru Village.

In the exercise of his contempt jurisdiction, the Learned Single Judge examined the rival contentions on merits, and held that failure on the part of the appellant, to take into consideration the sale deed in document No.1409/2008 dated 28.08.2008 whereby an extent of Ac.0.37 cents in Survey No.42/5 was sold for a sum of Rs.42,37,838/-, was illegal and *mala fide*. He, thereafter, directed the appellant herein to consider the said sale transaction dated 28.08.2008, and fix the market value of the land of the respondent-petitioner as on 29.09.2008 with all benefits under the Land Acquisition Act, 1894, and to pay compensation to her within six weeks from the date of receipt of a copy of this order. The Learned Single Judge sentenced the appellant to pay a fine of

Rs.2,000/- within four weeks, directed him to be more careful in future, and not to mislead the Court, while implementing the directions given by the Court, like he did in the present case.

The jurisdiction, which the Court exercises under the Act, is confined to an examination as to whether the order, violation of which is alleged in the contempt case, has in fact been violated; whether such violation is wilful and deliberate; and, if so, the nature and extent of punishment to be imposed on the respondent-contemnor for such violation. In the exercise of its jurisdiction, under Sections 10 and 12 of the Act, this Court would not examine the order of the District Collector dated 07.03.2018 on merits, as such an examination can only be undertaken in independent legal proceedings. The learned Government Pleader is, therefore, justified in his submission that the Learned Single Judge has exceeded his jurisdiction under the Act, in examining the matter on merits, and in faulting the appellant in failing to take into consideration the sale deed dated 28.08.2008 in fixing the market value of the land. The order under appeal, to the extent indicated hereinabove, is liable to be, and is accordingly, set aside. It is, however, made clear that this order shall not disable the respondent-petitioner, in case she is aggrieved by the order of the District Collector in his proceedings dated 07.03.2018, to question it in independent legal proceedings.

We, however, find considerable force in the submission of Sri M.S. Prasad, learned Senior Counsel for the respondent-writ petitioner, that, while the respondent-writ petitioner may be required to institute independent legal proceedings for the failure of the appellant to take into consideration the sale deed dated 28.08.2008, in fixing the market value of the subject land, failure of the appellants even to comply with the earlier order passed in W.P.No.20140 of 2011 dated 09.03.2017, which was affirmed in W.A.No.941 of 2017 dated 22.08.2017, and in not paying

the respondent-writ petitioner the market value of the land prevailing as on 29.09.2008, in terms of the judgment of the Larger Bench of this Court in **Mekala Pandu**¹, justified action being taken against them under the contempt of Courts Act. In the order in W.A.No.941 of 2017 dated 22.08.2017, we had observed that the Learned Single Judge has rightly held, in the light of the law declared by the Larger Bench of this Court in **Mekala Pandu**¹, that the assignees were entitled to be paid compensation as per the market value prevailing on the date of resumption of the land.

While the appellant appears to have paid compensation to the respondent-writ petitioner, for having resumed the land assigned to her earlier, at Rs.3,00,000/- per acre, the law declared by the Larger Bench of this Court, in **Mekala Pandu**¹, is that the assignees are entitled to compensation as owners of the land, and for all other consequential benefits, under the provisions of the Land Acquisition Act, 1894. Consequently, the appellants were obligated, in terms of the order passed in W.P.No.20140 of 2011 dated 09.03.2017 as affirmed in W.A.No.941 of 2017 dated 22.08.2017, to pay the respondent-petitioner not only Rs.3,00,000/- per acre as the market value, but also interest and solatium thereupon.

While the learned Government Pleader would seek time to make payment, Sri M.S.Prasad, learned Senior Counsel appearing on behalf of the respondent-petitioner, would submit that, if the Contempt Case is restored, the respondent-petitioner would put forth their submissions before the Learned Single Judge. In the light of the submissions now made by Sri M.S. Prasad, learned Senior counsel, we consider it appropriate to set aside the order under appeal, and restore C.C.No.1471 of 2017 to file. The respondent-petitioner is entitled to institute independent legal proceedings, regarding their claim to be paid

compensation, at the market value prevailing as on 29.09.2008, taking into consideration the sale deed dated 28.08.2008.

The order under appeal is set aside, and C.C. No.1471 of 2017 is restored to file. The Learned Single Judge shall examine afresh whether failure, on the part of the appellant, to pay interest and solatium on the market value of Rs.3.00 lakhs per acre, would amount to wilful and deliberate violation of the order passed in W.P.No.20140 of 2011 dated 09.03.2017; and, if so, the nature and extent of punishment to be imposed on the appellant herein.

Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

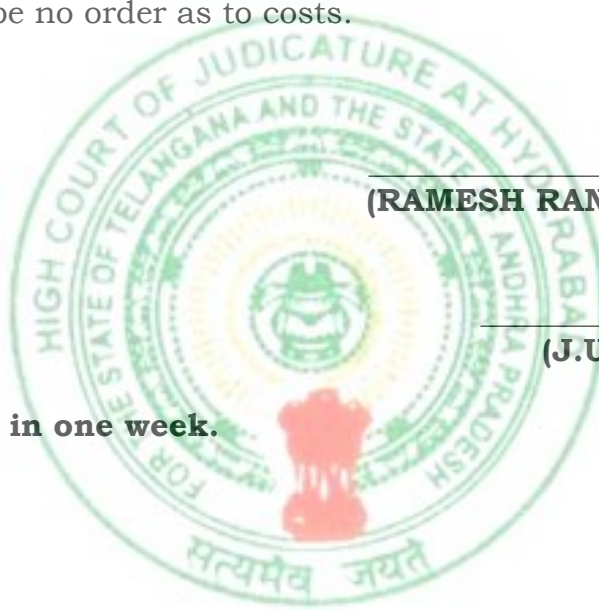
(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

20th June, 2018

Note: Issue C.C in one week.

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**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS JUSTICE J.UMA DEVI**



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Date:20.06.2018

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