

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CC.No.1086 of 2017

ORDER :

This Contempt Case is filed alleging wilful and deliberate violation of the order dt.29.06.2016 in WP.No.2132 of 2012.

2. In that Writ Petition, the petitioners had challenged the notification under Section 4(1) of the Land Acquisition Act, 1894 (**for short, ‘the 1894 Act’**), issued by the 1st respondent vide proceedings Rc.G5/4514/2011, dt.14.09.2011. The petitioners contended that though there was no dispensation of enquiry under Section 5-A of the 1894 Act, a draft declaration under Section 6 of the said Act was published on 16.02.2012.

3. This contention was accepted by this Court in it's order dt.29.06.2016 and it quashed the declaration under Section 6 of the 1894 Act, issued on 16.02.2012. It further held that even if a fresh declaration under Section 6 of the Act were to be issued, it is not possible to do so within one year from the date of publication of notification under Section 4(1) of the said Act (which was issued on 14.09.2011), and also because the repeal of the 1894 Act by the ‘Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (**for short, ‘the 2013 Act’**)’.

4. So this Court allowed the Writ Petition, and quashed the notification issued under Section 4(1) of the 1894 Act. It further directed respondent nos.1 to 4 in the Writ Petition to initiate appropriate proceedings in accordance with law for acquisition of the petitioners’ lands as per

provisions of the 2013 Act, and directed that the said exercise be completed within four (04) months from the date of receipt of copy of the said order.

5. In the present Contempt Case, filed on 06.06.2017, it is alleged that on 01.08.2016 the petitioners made a representation to the respondents to comply with the directions contained in the order dt.29.06.2016 in WP.No.2132 of 2012; that the said representation was sent through registered post and was received on 05.08.2016, but no action was taken for eleven months; and thus there is a wilful and deliberate violation of the said order dt.29.06.2016 by this Court in WP.No.2132 of 2012.

6. In the counter-affidavit filed by the 1st respondent, the respondents have stated that after receiving the above orders of this Court on 05.08.2016, they initiated proceedings for acquisition under the 2013 Act ; that after completion of survey and sub-division work, preliminary notification under Sec.11 had been submitted and was approved by the District Collector in proceedings dt.06.11.2016, and the same was published in the Gazette No.88 of Special Supplement (II), Nellore District Gazette Part-I extraordinary dt.06.11.2016; that it was also published in Vaartha Daily Newspaper on 08.11.2016 with an *errata* on 09.11.2016 in Andhra Bhoomi Daily Newspaper on 09.11.2016; and that local publication in the village was done on 14.11.2016. It is therefore contended that acquisition proceedings were initiated under the 2013 Act in respect of petitioners' land and the contention of petitioners that they were not initiated is not correct.

7. It is also submitted that notice in Form-6B under Section 15 (12) r/w Rule 21 of the 2013 Act was issued by the Land Acquisition Officer to the petitioners on 07.01.2017, that they received them on 09.01.2017, but they

did not file objections within the stipulated time of (60) days. It is stated that therefore declaration under Section 19(1) of the 2013 Act was published on 17.02.2017 by the District Collector, S.P.S, Nellore District, and it was also published in the Gazette, i.e., Gazette No.4 of Nellore District Gazette Part-I extraordinary dt.20.02.2017. It is stated that it was also published in Sakshi Newspaper on 20.02.2017 and Praja Sakthi Daily Newspaper on 20.02.2017 and local publication was done on 23.02.2017.

8. It is stated that the District Collector approved vide reference dt.09.05.2017 the market value at the rate of Rs.2,50,000/- per acre for the land of the petitioners, and thereafter, notice was given to the petitioners on 17.05.2017 to attend Award enquiry on 17.06.2017 before the Revenue Divisional Officer, Nellore, but the petitioners did not attend the Award enquiry and Award was passed on 30.06.2017.

9. The learned Advocate-General, appearing for respondents, pointed out that petitioners received notice in Form – 6B on 09.01.2017, but yet made a false averment in the affidavit filed in support of the Contempt Case that proceedings for acquisition of land pursuant to the direction given by this Court was not done by respondents; that in the notice in Form-6B it was specifically mentioned that petitioners should file objections to acquisition of their land within (60) days, but petitioners did not file any objections thereto; and therefore, the respondents cannot be punished for contempt.

10. Reply-affidavit was filed by petitioners raising certain additional contentions.

11. In the reply-affidavit, it is denied that the petitioners received notice of the Award enquiry issued on 17.05.2017 to attend on 17.06.2017; that these notices were prepared after filing of the Contempt Case and the Award itself was passed on 30.06.2017 behind the back of petitioners and contrary to the provisions of the 2013 Act; that the respondents did not determine the market value as per the provisions of the 2013 Act, and the market value was determined on the basis of the old basic value. According to petitioners, a report was sent by 3rd respondent on 13.04.2017 stating that the acquired lands abut the Podalakur – Rapur Road and was within 100 meters of the said road, and that though the 3rd respondent stated that the market value of such lands would be between Rs.8,00,000/- to Rs.10,00,000/- per acre, still the Revenue Divisional Officer fixed the market value at a low amount of Rs.2,50 lakhs per acre, and that this exercise is contrary to the provisions of the 2013 Act.

12. I have noted the contentions of both sides.

13. The petitioners' counsel did not dispute that in the order passed by this Court on 29.06.2016, this Court directed the respondents therein to initiate appropriate proceedings in accordance with law for acquisition of petitioners' lands as per the 2013 Act. This order was implemented admittedly by the respondents by issuing notice under Section 11(1) of the 2013 Act on 06.11.2016 which was published in the Gazette as well as in the newspapers followed by declaration under Section 19(1) of the 2013 Act published on 20.02.2017, and in the newspapers on the same day. Local publication was done by them of the Section 11 Notification as well as Section 19 declaration on 14.11.2016 and 23.02.2017.

14. It is not disputed by petitioners that the order dt.29.06.2016 in the Writ Petition was received by the respondents on 05.08.2016. If so, the issuance of notification under Section 11 of the 2013 Act on 06.11.2016 is within the period of four months fixed by this Court in the said order. In this view of the matter, it cannot be said that there is any wilful disobedience of the said order passed by this Court by the respondents.

15. As regards the contentions raised by petitioners in the reply-affidavit in this Contempt Case, those contentions cannot be raised in this contempt case and it is open to petitioners to raise those contentions in any proceedings which they may take challenging the Award dt.30.06.2017 before the appropriate Forum in an appropriate proceedings.

16. The petitioners contend that they did not receive the compensation fixed under the Award. If so, the respondents shall arrange to make payment of the said amount to petitioners within 6 weeks, which the petitioners may receive without prejudice to their rights to challenge the Award.

17. Subject to the above directions, the Contempt Case is dismissed. No order as to costs.

18. As a sequel, miscellaneous applications, pending if any in this Contempt Case, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 21.02.2018

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