

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

C.C.No.527 of 2015

ORDER:

Heard the learned counsel for the petitioner and the learned Advocate General, State of Telangana, appearing for the respondents.

2. This Contempt Case is filed by the petitioner for punishing the respondents for willful violation and disobedience of the order dt.20-09-2004 in W.P.No.11759 of 2002.

3. The petitioner herein and three others in the said Writ Petition were assignees of an extent of Ac.2.10 gts in Sy. No.115/20 of Nanakramguda village, Serilingampally Mandal, Ranga Reddy District.

4. In order to establish a Financial District, a decision was taken vide G.O.Ms.No.411 Industries and Commerce (SSI) Department dt.28-07-2001, as amended by G.O.Ms.No.86 Industries and Commerce Department dt.20-02-2002, to allot the land to the A.P. Industrial Infrastructural Corporation Limited (the 3rd respondent in the Writ Petition) by the then State Government of Andhra Pradesh.

5. Thereafter, action was initiated by the Revenue officials for resumption of the land invoking the covenant in the assignment orders which enables the State Government to resume the land for public purpose.

6. On 17-04-2002, the Mandal Revenue Officer, Serilingampally Mandal, issued notice No.B/1979/2000-02 to the petitioners in the above Writ Petition and to other assignees individually directing them to deliver possession of the land within a week from the date of receipt of a copy of the notice and further stated that if they did not do so, possession will be taken forcibly.

7. Petitioner and other assignees questioned the same before this Court in W.P.No.11759 of 2002 and batch.

8. They contended that whenever assigned land is resumed, Government has to pay exgratia/compensation as per G.O.Ms.No.1307 Revenue (Assignment-I) Department dt.23-12-1993, and in the absence of the same, the impugned notice dt.17-04-2002 cannot be sustained. They relied upon the judgment of this Court in **L.A.O.-cum-R.D.O., Chevella Division, Domalguda, Hyderabad Vs. Mekala Pandu¹** and contended that they are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession by the State in accordance with the terms of the grant or patta.

9. The said W.P.No.11759 of 2002 and batch were disposed of on 20-09-2004 following the decision in **Mekala Pandu** (1 supra) and a direction was given to (i) the Deputy Collector and Mandal Revenue Officer, Serilingampally Mandal, (ii) the District Collector,

¹ 2004 (2) ALT 546 (Larger Bench of 7 Judges)

Ranga Reddy District, and (iii) the Government of Andhra Pradesh to pay *compensation to all the petitioners equivalent to full market value of the land and other benefits on par with full owners of the land within a period of four months from the date of receipt of a copy of the order.* The Court also permitted the Government to take into consideration compensation fixed by the Land Acquisition Officer in certain acquisition proceedings the previous year. Possession of the land was however taken on 01-10-2004 from petitioner and other parties in the Writ Petition.

10. This was questioned by the A.P. Industrial Infrastructural Corporation in S.L.P. (Civil) No.26345 of 2004 and batch which was admitted and numbered as Civil Appeal No.7904 of 2012 and the said Civil Appeal was dismissed by the Supreme Court also on 04-08-2014.

11. Thereafter the A.P. Industrial Infrastructural Corporation filed a Review Petition (C) No.1621 of 2015 in the Supreme Court. The said Review Petition was dismissed on 28-07-2015.

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12. After the dismissal of the Civil Appeal, the petitioner sent notice dt.30-01-2015 through his counsel seeking payment of compensation as per the judgment in W.P.No.11759 of 2002 dt.20-09-2004, and thereafter on 3-3-2015 filed this Contempt Case to punish the respondents herein under Section 12 of the Contempt of

Courts Act, 1971 for not implementing the above order in the Writ Petition.

13. Counsel for the petitioner relied upon the judgment in **Dineshan K.K. Vs. R.K.Singh and another**² and contended that though the order passed by the High Court in Writ Jurisdiction merged with the order passed by the Supreme Court dismissing the Civil Appeal, a Contempt Case can be maintained in the High Court and need not be filed in the Supreme Court. In the said decision, the Supreme Court held:

“14. We are mindful of settled law that the orders passed by the High Court would merge with the order passed by this Court. This Court has dismissed the appeal only and, therefore, it is the directions passed by the High Court which in fact have been allegedly disobeyed by the respondent contemnors. In our considered view, it would be in the interest of justice and to lessen the burden of this Court in the current scenario, it would be appropriate to request the High Court to look into the grievance of the complainant, if a petition is filed before them inter alia bringing to their notice and knowledge that their orders and directions have been disobeyed. In our opinion, firstly, this exercise would be beneficial to the parties because they were before the High Court in the writ petition wherein the directions were issued, and secondly, by entertaining the petitions of this nature wherein this Court has passed an order of dismissal simpliciter and the alleged contempt arises out of the order passed by the High Court, this Court would saddle the dockets with cases which could otherwise be effectively disposed of by the courts below.”

14. In view of the same, this Contempt Case was entertained on 27-3-2015 and contentions raised therein were taken note of.

² (2014) 16 S.C.C. 88

15. After the Contempt Case was entertained, notices were served on the respondents, a counter affidavit was filed in June 2015 by the Dy.Collector & Mandal Revenue Officer, Serilingampally Mandal, Ranga Reddy District (1st respondent) tendering unconditional apology and praying for time to resolve the issue of payment of compensation by moving the matter through Collector, Ranga Reddy District (the 2nd respondent). Subsequently, time was granted on 10-7-2015, 31-7-2015, 20-8-2015 and 20-9-2015 to comply with the order dt.20-9-2004 in WP.No.11759 of 2002.

16. Since nothing was done in the intervening period by the respondents, though the 2nd respondent was holding charge as District Collector, Ranga Reddy since January,2015, notice in Form-I was issued to both respondent Nos.1 and 2 on 23-09-2015.

17. Thereafter, time was sought by the Government Pleader for Revenue on 26-10-2015 and four weeks' time was granted dispensing with the presence of the 2nd respondent. Time was again sought by Advocate General, State of Telangana who represented the respondents on 27-11-2015, 03-03-2016, 18-03-2016, 11-04-2016, 22-04-2016 and 10-06-2016. In the meantime on 01-06-2016, a memo was filed on behalf of respondents enclosing proceedings No.G1/680/2015 dt.11-04-2016 issued by 2nd respondent.

ORDER DT.11-04-2016 OF 2nd RESPONDENT:

18. In this order, the 2nd respondent noted that as per the order dt.20-09-2004 in Writ Petition No.11759 of 2002, benefits

provided to full land owners of the land under the Land Acquisition Act, 1894 are to be paid to petitioner which include market value of the land, 30% solatium, additional market value at 12% per annum, interest at 8% per annum for first year and 15% per annum after one year before taking possession of the land and that in the instant case market value is determined at Rs.2.00 lakhs per acre, but no interest is payable to petitioner on the compensation for the period 05-01-2005 to 04-08-2014, the date of stay granted by the Supreme Court and date of disposal of the Civil Appeal by the Supreme Court, and the petitioner is eligible to receive interest on additional market value only for the period 01-10-2004 to 05-01-2005 and from 04-08-2014 till date of payment. He stated that the market value of the land was approved by the Collector on 28-08-2002 on the basis of recommendation by the then Joint Collector who had submitted rate of Rs.2.00 lakhs per acre taking into account certain sales statistics from 04-03-1999 to 19-02-2002 and the same basis was being applied. Reference is also made to an award passed by the Special Deputy Collector in File No.B/160/2002 on 27-12-2003 for extent of Ac.2.10 gts in Sy. No.111/2 of Nanakramguda village wherein Rs.8.00 lakhs per acre was fixed, but the said transaction was not taken into account on the ground that it was based on a single sale transaction; and another award passed by the Special Deputy Collector in file No.B/125/2001 dt.28-02-2004 for an extent of Ac.3.29 gts in Sy. No.109 and 110 where Rs.2.00 lakhs per acre was awarded, was taken into account.

19. *No notice had been given to the petitioner before passing the above order and the petitioner was denied an opportunity to place evidence before the 2nd respondent claiming higher compensation.*

THE SUBSEQUENT EVENTS:

20. After taking note of the order dt.11-04-2016, an additional affidavit was filed on 01-06-2016 by the petitioner stating that the said order is a mockery of the judicial order passed by this Court in W.P.No.11759 of 2002. Petitioner contended that the respondents could not have relied upon G.O.Ms.No.1307 dt.23-12-1993 which was already declared unconstitutional in **Mekala Pandu** (1 supra), and in fact, petitioner would be entitled to compensation under Right to Fair compensation , Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013), and not under Land Acquisition Act, 1894 since the proceedings under the 1894 Act, if deemed to have been initiated through notification on 17-04-2002 would lapse under Section 24 of the 2013 Act for not paying compensation till date.

21. Thereafter, matter was heard on 24-06-2016, 15-07-2016, 29-07-2016, 11-08-2017, 18-08-2017 and on 08-09-2017.

22. On 08-09-2017, this Court noted that the 2nd respondent had relied in the order dt.11-04-2016 on proceedings dt.28-08-2002 of the then District Collector, Ranga Reddy District; that the said proceedings or the sale statistics allegedly considered by the 2nd respondent are not disclosed to the Court or to the petitioner; and

the Court does not accept that the amount of Rs.2.00 lakhs per acre arrived at by 2nd respondent represents the market value; and that the exercise done by the 2nd respondent does not inspire any confidence and is opaque. It directed the 2nd respondent to appear before the Court. Matter was adjourned to 21-09-2017.

23. Thereafter, on 21-09-2017, adjournment was sought and the 2nd respondent was directed to file an affidavit disclosing details of sales statistics considered by him while passing the order dt.11-04-2016 referred to above. Matter was then posted to 06-10-2017 on which date, an additional affidavit was filed by 2nd respondent along with annexure.

24. In the additional affidavit filed, the 2nd respondent stated that he took charge as District Collector, Ranga Reddy, in January 2015 and that he initiated proceedings for complying with the order in the Writ Petition after receiving the Contempt notice. He stated that the Special Deputy Collector (Land Acquisition) had forwarded sales statistics between 1999-2002 which were noted in File No.G1/2051/2002 dt.16-08-2002; that the Joint Collector took note of the same and requested fixing of exgratia as per G.O.Ms.No.1307 (Revenue) Assign-I Department dt.23-12-1993, while fixing market value at Rs.2,25,000/- per acre; that the Joint Collector then recorded that keeping in view the sales statistics, only Rs.2.00 lakhs per acre is payable; and he accepted this statement of the Joint Collector in his proceedings dt.11-04-2016. He stated that he did not do anything to

over reach the orders of the Court nor indulged in any Act which would lower the majesty of the Court.

25. Counsel for petitioner then sought time. Matter was then listed on 30-11-2017 and 28-12-2017.

26. On 28-12-2017, the then Advocate General appearing for respondents stated that the 2nd respondent is having a re-look at the matter in the light of the legal position and seeks further time. Matter was then adjourned to 24-01-2018. It was on that day adjourned to 24-01-2018 and later to 07-02-2018 and 21-02-2018.

27. In the meantime, on 11-02-2018, the 2nd respondent passed order afresh vide proceedings dt.G1/680/2015 dt.11-02-2018.

THE ORDER DT.11-02-2018:

28. In this order, the 2nd respondent fixed the market value of the petitioner's land at Rs.2.18 lakhs per acre considering 12 sale transactions, *again without issuing any notice to the petitioner or to his counsel*. Unlike in his earlier order dt.20-04-2016, this time he held that petitioner is entitled to interest even for the period 05-01-2005 to 04-08-2014.

29. In the said order, he referred to letter dt.30-11-2017 of the Advocate General that this Court was of the view that the earlier fixation of compensation was not in tune with the accepted principles and required to be revisited by the District Collector. He also referred

to another letter dt.19-01-2018 of the Advocate General requesting the District Collector to have a re-look into the matter.

30. The matter then was posted to 28-02-2018, 07-03-2018, 14-03-2018 and 25-04-2018.

31. In the meantime, the counsel for the petitioner filed I.A.No.1 of 2018 on 06-04-2018 praying this Court to receive registered sale deeds being Doc. No.5199 of 2002 dt.21-06-2002 and Doc. No.2380 of 2002 dt.21-03-2002. In both the sale deeds, an extent of Ac.1.00 gts each in Sy. No.111 (Part) at Nanakramguda village was sold for Rs.10.00 lakhs.

32. Counsel for the petitioner contended that no reason is assigned why these documents were not even referred to by the District Collector in both his orders dt.11-04-2016 and 11-02-2018 and this further indicates that there is willful and deliberate violation of the order passed in W.P.No.11759 of 2002.

33. I.A.No.3 of 2018 was also filed on 06-04-2018 by petitioners relying on other transactions of subsequent period i.e. 04-07-2007, 12-09-2007, 31-03-2010 and 06-03-2018 for neighboring lands.

34. The matter was then adjourned on 25-04-2018 after the summer vacation and was listed on 27-06-2018 and 04-07-2018. On 04-07-2018, it was heard in part and listed on 05-07-2018.

35. On that day, the Additional Advocate General appeared for the respondents and stated that he would advise the 2nd respondent to again have a re-look in the matter having regard to the material filed by the petitioners before this Court regarding the market value of the land. He also stated that the 2nd respondent would give notice to counsel for the petitioner to attend a hearing since earlier no opportunity was given. So the matter was adjourned by eight weeks to enable the 2nd respondent to determine the market value as per **Mekala Pandu** (1 supra) and as per law declared by various Courts in relation to acquisition of lands under the Land Acquisition Act, 1894.

36. But in the docket order dt.05-07-2018 there was a typographical error and instead of mentioning that the 2nd respondent (the District Collector) would reconsider the matter, it was mentioned that the 1st respondent i.e. the Deputy Collector and Tahsildar, Serilingampally Mandal, would have a re-look into the matter.

37. Taking advantage of this typographical error, the 2nd respondent did nothing with regard to the exercise of determination of market value of the lands of the petitioner as undertaken by the Additional Advocate General.

38. On 02-08-2018, about one month after the said docket order was passed on 05-07-2018, I.A.No.4 of 2018 was filed by 2nd respondent to clarify the said order dt.05-07-2018. No attempt was made to get the matter listed before the Court by the office of the Additional Advocate General or by any of the respondents.

39. Ultimately the counsel for the petitioner made a mention for listing of the case and it came to be listed on 24-09-2018.

40. At that time, it was brought to the notice of the Court by the Government Pleader attached to office of the Additional Advocate General that Sri M.Raghunandan Rao, IAS, who was functioning as District Collector, Ranga Reddy District (the 2nd respondent) and who passed the orders on 11-04-2016 and 11-02-2018 and had filed counter affidavits in the Contempt Case, was transferred from the said post of District Collector on 28-08-2018 and that he had not done anything in the matter awaiting clarification from the Court.

41. The Court observed that the conduct of the said Officer as well as that office of the Additional Advocate General was negligent and careless and is to be strongly deprecated.

42. The matter was then adjourned to 28-09-2018 when Advocate General appeared for the respondents and stated that there was no willful disobedience of the order passed on 20-09-2004 in W.P.No.11759 of 2002, and that it was the typographical error in the order dt.05-07-2018 which was responsible for the delay in determination of the compensation for the land of the petitioner, and the 2nd respondent cannot be punished for the same. He stated that the successor officer, one Lokesh Kumar, IAS, appointed in place of Sri M.Raghunandan Rao, would continue the proceedings and complete the determination of compensation within eight weeks.

43. The orders in the Contempt Case were reserved.

THE CONSIDERATION BY THE COURT

44. From the facts narrated above, it is clear that the petitioner's assigned land was resumed by the State for the purpose of Financial District by passing of a notice of resumption dt.17-04-2002 and possession was taken on 01-10-2004.

45. Though the petitioner is an assignee of land, he is entitled to compensation equivalent to market value of the land and other benefits on par with full owners of the land as per the decision in **Mekala Pandu** (1 supra). But the petitioner has not been paid the same for the past 16 ½ years. It is true that the judgment dt.20-09-2004 in W.P.No.11759 of 2002 came to be confirmed by the Supreme Court in Civil Appeal No.7904 of 2012 on 04-08-2014.

46. Therefore it was incumbent on the part of the 2nd respondent to properly determine compensation payable to the petitioner along with other benefits as if petitioner is a land owner applying the principles for determination of compensation under the Land Acquisition Act, 1894 taking *the date of dispossession* of the petitioner as the proper date with reference to which market value is to be determined.

47. This is because, a Division Bench of this Court in order dt.28-08-2017 in W.A.No.170 of 2002 and batch held that when assigned land is resumed by the Government for a public purpose, then the assignee, notwithstanding any condition to the contrary incorporated in the assignment deed or patta, is entitled to full market

value *as on the date of resumption of their land* as per the decision in **Mekala Pandu** (1 supra), as owners of the land are entitled to under the Land Acquisition Act, 1894.

48. Such date of resumption can only be the date of dispossession of the assignee and not when notice proposing resumption is given.

49. In the instant case, the notice proposing resumption was admittedly given on 17-04-2002 though actual possession was taken only on 01-10-2004. Therefore in the instant case compensation equivalent to market value of the petitioner's land as on 01-10-2004 along with all other benefits under the Land Acquisition Act, 1894 is required to be paid to the petitioner by the State.

50. Though the counsel for the petitioner sought to contend that petitioner is entitled to compensation not under the Land Acquisition Act, 1894 but under Act 30 of 2013, I do not agree with the said submission since the resumption was in 2004 much prior to the coming into force of the 2013 Act.

51. Though the judgment in the Writ Petition attained finality on 04-08-2014, no steps were taken to determine the market value compensation and benefits payable to the petitioner and pay them to petitioner. After the Contempt Case was filed and after Form-I notice was issued on 23-09-2015, the 2nd respondent passed order in proceedings No.G1/680/2015 dt.11-04-2016.

52. In the said order, the 2nd respondent did not consider any sale transactions except Joint Collector's view about the market value in the latter's proceedings dt.28-08-2002 and an award passed on 28-02-2004 for land in Sy. Nos.109 and 110 wherein market value was fixed at Rs.2.00 lakhs per acre. He took the relevant date for determining compensation as 17-04-2002 and not as 01-10-2004. He also did not grant any interest for the period 05-01-2005 to 04-08-2014 on the pretext that the SLP/Civil Appeal filed by the State was pending in the Supreme Court. Thus he did not act as per law declared in **Mekala Pandu** (1 supra) and in W.A.No.170 of 2002.

53. To rectify this mistake, the Court granted him an opportunity, at the request of the Advocate General on 28-12-2017.

54. Again he passed an order on 11-02-2018 treating the date for fixing market value as 17-04-2002 ignoring the date of taking possession of 01-10-2004. That apart he considered sale transactions only between 26-06-1999 and 16-02-2001 and did not consider any sale transaction proximate in time to 01-10-2004 close to the subject land. He also ignored the potentiality of the land of the petitioner by considering petitioner's land as agricultural land even though there were transactions on square yard basis in the neighbourhood, some of which are even referred to in his order dt.11-02-2018.

55. The 2nd respondent thus ignored the well settled principles for determination of compensation of land acquired under the Land Acquisition Act, 1894. He sought to play fraud on the Court by

attempting to mislead the Court into believing that he had applied proper principles for determining the compensation.

56. In **Mehrawal Khewaji Trust (Registered), Faridkot and others Vs. State of Punjab and others**³, the Supreme Court held that when several sale deeds are available with reference to similar lands, it is the general rule that highest of the sales, if they are bona fide sales, has to be considered and accepted and the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different value.

57. In **Digamber and others Vs. State of Maharashtra and others**⁴, the Supreme Court however held that acquisition of land is for functional purpose and that should also be relevant criteria for determining the market value and even sale instances of small plots of land can be relied upon if the acquired land has got non-agricultural potentiality.

58. These legal principles which, not disputed by the learned Advocate General, were deliberately given a go-by by the 2nd respondent.

59. It is difficult to believe that an officer of the rank of a District Collector like the 2nd respondent, who is being represented by the Additional Advocate General and the Advocate General for the State of Telangana can be ignorant of the above principles and his

³ (2012) 5 S.C.C 432

⁴ (2013) 14 S.C.C. 406

actions while passing the orders on 11-04-2016 and 11-02-2018, are bonafide.

60. After the Additional Advocate General made request the Court on 05-07-2018 that he would advice the 2nd respondent to again have a re-look in the matter, even if there was any typographical error (referring to the '1st respondent' and not '2nd respondent') in the docket order dt.05-07-2018 passed by this Court recording the statement of the Additional Advocate General, the 2nd respondent could have proceeded further and passed a fresh order after considering the claim of the petitioner. But, he took advantage of the typographical error and did nothing till he got transferred.

61. This shows that he has no regard to even the advice of the Additional Advocate General who tried to save him from punishment for Contempt of Court.

62. In my opinion, the conduct of the 2nd respondent, keeping in mind all the above circumstances, is a deliberate and willful disobedience of the order passed by this Court on 20-09-2004 in W.P.No.11759 of 2002. He never had an intention to determine the compensation payable to petitioner according to legal principles and was only keen to pay the bare minimum to petitioner.

63. Accordingly, the 2nd respondent is found guilty under Art.215 of the Constitution of India and Sec.12 of the Contempt of Courts Act,1971 and is sentenced to fine of Rs.2000/- (Rupees Two Thousand only) which shall be paid within four weeks from today.

There shall also be an entry in the service record of 2nd respondent to this effect.

64. The present District Collector, Ranga Reddy District, shall complete the process of determination of market value of the property of the petitioner as on 01-10-2004, after giving notice to petitioner's counsel/petitioner, consider the material produced by the petitioner, and determine the compensation payable to the petitioner as per the decision in **Mekala Pandu** (1 supra) and as per the law declared by various Courts in relation to acquisition of land under the Land Acquisition Act, 1894, and pay the same to petitioner within eight weeks.

65. Accordingly, the Contempt Case is allowed with the above directions.

66. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-10-2018

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