

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.C.No.1329 of 2018

&

Rev.I.A.No.2 of 2018 in WP.No.18152 of 2012

COMMON ORDER :

Heard counsel for petitioners in Contempt Case No.1329 of 2018 and for respondents in Rev.I.A.No.2 of 2018 in WP.No.18152 of 2012; and the learned Government Pleader for Land Acquisition for respondent in C.C.No.1329 of 2018 and for Review Petitioners in Rev.I.A.No.2 of 2018 in WP.No.18152 of 2012.

Rev.I.A.No.2 of 2018 in WP.No.18152 of 2012 :

2. This Review Petition is filed seeking review of the order dt.24.10.2017 passed in WP.No.18152 of 2012.
3. The Review Petitioners in I.A.No.2 of 2018 in WP.No.18152 of 2012 are respondents in the above Writ Petition.
4. The parties will be referred to as per their array in the Review Petition.
5. The respondents in the Review Petition / petitioners in WP.No.18152 of 2012 have been assigned D.K.T. pattas for one acre of land each in Cherivi Village in various survey numbers. The State Government declared the entire village as Special Economic Zone (S.E.Z.) for the purpose of establishing Industrial Park in 2006 and claimed to have allegedly acquired the respondents' lands also in 2008.

6. The respondents filed the Writ Petition contending that they had not violated any conditions of patta and that they were attempted to be dispossessed from the land in their occupation.

7. On 20.06.2012 in WPMP.No.23254 of 2012 in WP.No.18152 of 2012, this Court directed the respondents not to dispossess the petitioners from the lands in question without paying *ex gratia*.

8. Thereafter, WVMP.No.32 of 2013 in WPMP.No.23254 of 2012 in WP.No.18152 of 2012 was filed by the Review Petitioners along with the counter-affidavit to vacate the above interim order.

9. In the Vacate Stay Petition / counter-affidavit, the respondents submitted that the Zonal Manager of the A.P.I.I.C. Limited, Tirupathi had submitted a request to the District Collector, Chittoor for acquisition and alienation of lands in the Cherivi Village for establishing an Industrial Park (Special Economic Zone); that action was taken by the Tahsildar, Sathyavedu Mandal, Chittoor District for resuming the lands assigned to respondents for payment of *ex gratia*; that during the course of field inspection, it came to light that the lands assigned to respondents were not in possession of respondents, but were in possession of other persons; that notices were issued to respondents calling for explanation within (7) days to show-cause why assignment shall not be cancelled, and the land should not be resumed; and thereafter, orders were issued in 2007 canceling the assignment and the lands assigned to respondents were resumed.

10. It is important to note that no show-cause notices were issued to the respondents nor orders canceling the assignments made to respondents were filed along with the Vacate Stay Petition.

11. The Counter-affidavit filed by petitioners was silent as to when the alleged inspection was conducted by the Tahsildar, Sathyavedu Mandal, Chittoor District; when notices were issued to respondents; and whether such notices were served on the respondents or not. Thus, no material in support of the pleading of the Review Petitioners was filed along with the Vacate Stay Petition.

12. On 09.06.2016, WVMP.No.32 of 2013 in WPMP.No.23254 of 2012 in WP.No.18152 of 2012 was dismissed by a reasoned order.

13. Ultimately, the Writ Petition No.18152 of 2012 was also allowed with costs on 24.10.2017 taking note of the fact that the contentions of the Review Petitioners were not supported by any Revenue Record and no orders canceling the assignment granted to respondents were filed along with the counter-affidavit and a conclusion was drawn that the Review Petitioners have failed to prove their contentions, while the respondents in the Review Petition have proved their contentions on the basis of Ex.P.1-Adangal filed for the years 1404, 1405 and 1406. It was declared that the action of petitioners in dispossessing the respondents from the lands was arbitrary, illegal and violative of Articles 14 and 200-A of the Constitution of India; and a direction was given to the Review Petitioners to pay compensation to the respondents in the Review

Petition on market value basis along with other benefits within four (04) months.

14. When this order was not implemented, Contempt Case No.1329 of 2018 was filed by respondents in the Review Petition / Writ Petitioners contending that not even costs were paid nor was compensation paid.

15. The District Collector, Chittoor thereafter has filed this Review Petition on behalf of Review Petitioners.

16. The Government Pleader for Revenue, appearing for Review Petitioners, sought to contend that orders of resumption as regards respondents are not filed along with the Review Petition; that they were inadvertently not filed at the time when the counter-affidavit and vacate stay petition were filed on 16.10.2012 in WP.No.18152 of 2012; that these documents show that notices were issued to each of the respondents and orders of resumption were passed as against them.

17. A look at the alleged resumption orders passed by 4th petitioner on 25.02.2008 indicates that such orders were passed against one T. Sudhakar and T. Kanthaiah and not against respondents in the Review Petition / Petitioners in WP.No.18152 of 2012.

18. Admittedly, the Writ Petition No.18152 of 2012 was pending from 2012 to 24.10.2017; and the Vacate Stay Petition was filed on 16.10.2012 as mentioned above, to vacate the interim order granted in

the Writ Petition. What prevented the Review Petitioners to file orders of resumption passed against the respondents during the pendency of Writ Petition was not mentioned in the counter-affidavit filed in WP.No.18152 of 2012. Though in the present Review Petition it is stated that entire records were seized by the Anti-Corruption Bureau (A.C.B.), Nellore in connection with WP.(PIL).No.24604 of 2008, even along with the Review Petition no orders of resumption as regards respondents in the Review Petition have been filed. In the absence of any supporting material produced by Review Petitioners, the Review Petitioners cannot find fault with this Court for allowing W.P.No.18152 of 2012 on 24.10.2017.

19. Also, no revenue record such as Adangals have been filed along with the Vacate Stay Petition or in the Review Petition to show that respondents were not in possession of the lands assigned to them on the alleged date of resumption and some third-party was in possession thereof.

20. Statements of certain individuals claiming to be in possession are filed along with the Review Petition, which statements are not made on oath, not subjected to cross-examination by the respondents, and which are not corroborated by any documentary evidence. Obviously, this material seems to have been created only for the purpose of filing Review Petition and avoid implementing the order passed by this Court on 24.10.2017 in WP.No.18152 of 2012.

21. I therefore find no reason to entertain the Review Petition I.A.No.2 of 2018 in WP.No.18152 of 2012 since there is no error, much less, any error apparent on the face of record warranting Review of the said order.

22. Accordingly, the Review Petition I.A.No.2 of 2018 in WP.No.18152 of 2012 is dismissed with costs of Rs.50,000/- to be paid by the District Collector, Chittoor personally to respondents.

23. The State of Andhra Pradesh, represented by its Principal Secretary (Revenue) is directed to initiate disciplinary action against the District Collector, Chittoor for filing such frivolous Review Petition and wasting the time of the Court.

Contempt Case No.1329 of 2018 :

24. Coming to the Contempt Case No.1329 of 2018, as stated above, the petitioners herein, who are also petitioners in WP.No.18152 of 2012 have contended that there is deliberate and willful violation of the order dt.24.10.2017 passed by this Court in WP.No.18152 of 2012.

25. It is not in dispute that the District Collector, Chittoor has directed the Joint Collector, Chittoor to pass orders vide Proc.No.G2/12510/208 dt.22.11.2018, stating that the petitioners in the Contempt Case have not established their title over the subject property, and therefore, they are not entitled to any compensation or *ex gratia*. It is also alleged in the said order by the Joint Collector that

they obtained the order in the Writ Petition by misrepresenting the facts before this Court.

26. As stated above, because of non-filing of revenue material along with the Counter-affidavit / Vacate Stay Petition by the State / District Collector / other petitioners in the Review Petition, the Writ Petition was allowed. Even now, as pointed above, no order resuming the land of respondents has been produced by the State.

27. That the lands were originally assigned to respondents is not in dispute. If there is no order resuming the lands of respondents, then obviously the respondents are deemed to be in possession and enjoyment of the land on the alleged date of resumption. In such an event, they alone would be entitled to market value compensation as per the decision in **LAO-cum-Revenue Divisional Officer, Chevella Division and Others v. Mekala Pandu and others**¹, and none else.

28. Therefore, the Joint Collector, Chittoor could not have given a finding contrary to the order passed by this Court on 24.10.2017 in WP.No.18152 of 2012 that the respondents have not established their entitlement to *ex gratia* / compensation, and they had obtained orders by concealing facts and misrepresenting the same before this Court. It is obviously an attempt by the Joint Collector, Chittoor instigated by the District Collector, Chittoor to over-reach this Court's order and avoid compliance with it. He has practically acted like an appellate

¹ 2004 (2) ALT 546

authority over this Court's order and given such finding and has thus committed Contempt of Court.

29. Accordingly, the proceedings No.G2/12510/2008 dt.22.11.2018 passed by the Joint Collector, Chittoor are set aside. The Contempt Case is allowed, and the District Collector, Chittoor as well as the Joint Collector, Chittoor are directed to pay fine of Rs.2,000/- within a period of four (04) weeks from the date of receipt of copy of the order.

30. The District Collector, Chittoor is granted one (01) months' time to comply with the order dt.24.10.2017 passed in WP.No.18152 of 2012.

31. The State of Andhra Pradesh, represented by its Principal Secretary (Revenue) is directed to initiate disciplinary action against the Joint Collector, Chittoor also for trying to over-reach the orders passed by this Court by passing the impugned order dt.22.11.2018.

32. Accordingly, Rev.I.A.No.2 of 2018 in WP.No.18152 of 2012 is dismissed with costs as above, and Contempt Case No.1329 of 2018 is allowed with costs as above.

33. As a sequel, miscellaneous petitions pending if any in the Contempt Case as well as Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05.12.2018

Ndr/*