

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CONTEMPT CASE Nos.1962 of 2018 and 136 of 2019

COMMON ORDER:

C.C.No.1962 of 2018 is filed on 19-07-2018 by the petitioners alleging willful disobedience of the order dt.25-06-2018 in I.A.No.1 of 2018 in W.P.No.15444 of 2018.

2. Later when there were further violations of the said order, in February, 2019, C.C.No.136 of 2019 was again filed by petitioners therein.

THE BACKGROUND FACTS

3. For acquiring the lands of private persons for public purpose *inter alia* the Parliament enacted the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013') repealing the Land Acquisition Act, 1894. The said Act came into force on 01-01-2014.

4. To the extent necessary for the purpose of deciding the present C.Cs., I shall mention the salient features of the said Act.

5. The Act contemplated that prior to acquiring land for public purpose, preparation of a Social Impact Assessment Study (Section 4) in consultation with the concerned Panchayat, Municipality or Municipal Corporation after issuance of a notification by the State Government and after a public hearing (Section 5) is necessary, and there should be publication of the said Study (Section 6). It also

provided for appraisal of the said Study by an Expert group (Section 7) and examination of proposals by appropriate Government (Section 8). It contemplated issuance of a preliminary notification under Section 11 for acquiring land for public purpose, for a preliminary survey of such land under Section 12, hearing of objections of 'persons interested in land' under Section 15, preparation of Rehabilitation and Resettlement Scheme (for short 'R & R) by an Administrator under Section 16, its review under Section 17 by the Collector, publication of the approved R & R Scheme by the Commissioner under Section 18 and thereafter publication of a declaration under Section 19 along with summary of R & R in the manner indicated therein.

6. It defined in Section 3(x) a '*person interested*' to include any person whose primary source of livelihood is likely to be adversely affected by the acquisition of land; and in Section 3(c), an '*affected family*' to include a family which does not own any land, but a member or members of such family who may be *agricultural labourers, tenants* etc., whose primary source of livelihood stands affected by such acquisition.

7. Section 26 dealt with determination of market value of land by the Collector.

8. Section 31 contemplated passing of R & R Awards for each 'affected family' in terms of the entitlements provided in the II Schedule to the Act.

9. *Section 38 stated that possession shall be taken of the land acquired by the Collector after ensuring that full payment of compensation as well as R & R Entitlements are paid or tendered to the entitled persons within a time specified.*

10. The State Government of Telangana had initiated a Project called 'Komuravelli Mallanasagar Reservoir' (for short 'KMS' Reservoir) as part of 'Kaleswaram Irrigation Project' in Thoguta village and Mandal, Siddipet District in 2016.

11. For procuring lands for this project the State of Telangana did *not* acquire lands under the Act 30 of 2013. *So none of the above referred procedures intended to benefit the land losers or agricultural labour were followed.*

12. The State of Telangana issued a G.O.Ms.No.123 Revenue (JA & LA) Department dt.30-07-2015 for *procuring land*, and other structures thereon *by way of purchase*, from willing landowners by procuring Agencies for public purpose. The G.O. stipulated that, in order to expeditiously procure lands for public projects, the Government deems it fit to come out with a framework that allowed landowners to participate in the development process by willingly *selling* their land and properties thereon, for a consideration on the basis of an agreement between the landowners and the user Department/Undertaking/Society/Authority called the Procuring Agency as approved by the District Level Land Procurement Committee. It prescribed a detailed procedure for procuring land

from willing landowners and others. The consideration, as agreed by the individual land owner or landowners and the Procuring Agency before the District Level Land Procurement Committee, is, *inter alia*, to include the value of the land and property, perceived loss of livelihood, equivalent costs required for rehabilitation and resettlement of willing landowners and others. Under the said G.O., the landowners are required to give an affidavit that they will not have any right to further enhancement of consideration, finalized by the Committee, to any other forum. The G.O., required the Committee, while determining the consideration, to take into account all taxes as admissible under various Central/State/Local laws and required the District Collector, on signing the agreement, to ensure registration of a conveyance deed or a sale deed in favour of the procuring agency duly making online payment of the consideration.

13. When this G.O.Ms.No.123 dt.30-07-2015 was used by the State to procure lands of private persons in Bardipur in Medak District for the National Investment and Manufacturing Zone (NIMZ) Project, it was questioned as being illegal, arbitrary and unconstitutional.

14. The said plea was upheld and it was struck down as unconstitutional by a learned Single Judge of this Court in **Aliji Tukamma and others Vs. State of Telangana and others**¹.

15. But the State of Telangana preferred W.A.No.677 of 2016 against the said order before the Division Bench of this Court.

¹ order dt.03-08-2016 in W.P.No.15312 of 2016

16. On 09-08-2016, initially the Division Bench suspended the order of the learned Single Judge.

17. Later On 16-08-2016, the above order was further modified stating as under:

“While the submission of Sri K.S. Murthy, learned counsel for the respondents-writ petitioners that G.O.Ms.No.190 dated 10.8.2016, as amended by G.O.Ms.No.191 dated 15.8.2016, does not fulfill all the conditions stipulated in the Second Schedule to the 2013 Act, cannot be said to be without merit we have, in our order dt.9.8.2016, recorded the submission of the learned Advocate General for the State of Telangana that all the benefits prescribed under the Second Schedule to the 2013 Act would be extended to the affected families under the NIMZ project. The question whether the State has implemented the assurance given to this Court by the learned Advocate General can be examined later, and the interest of those families who are affected by NIMZ project can be protected directing the State to file a compliance report furnishing details of the manner in which they have implemented all the conditions specified in the Second Schedule to the 2013 Act as per the assurance recorded in our earlier order dated 9.8.2016.

While the State may proceed to purchase lands from those who are willing to voluntarily part with it, and to register the same, it shall not dispossess the land owners and the affected families from these lands till a compliance report is submitted to this Court, and orders are thereafter passed by this Court regarding dispossession of both the land owners and the affected families from the subject lands.

The assurance given by the State, as recorded in our order dated 9.8.2016, shall be complied with and a compliance report, containing details of the manner in which these benefits have been extended to all the land owners and each of the affected families, shall be submitted to this Court for its consideration.”(emphasis supplied)

18. Thus, the Division Bench in W.A.No.677 of 2016, while suspending the order of the learned Single Judge setting aside the G.O.Ms.No.123 dt.30-07-2015, had permitted the State to proceed with the purchase of lands from those who are willing to voluntarily part with them and to register the same, and further directed that the State *shall not dispossess the land owners and the affected families from these lands till compliance report as to how R & R benefits specified under Second Schedule to the Act were submitted to the Court and the Court was satisfied with it.*

19. In another matter where the said G.O.Ms No.123 dt.30-7-2015 was applied for procuring lands under the KMS Reservoir in Vemulaghat and neighboring villages Etigadda Kistapur in Thoguta Mandal and Yerravally and Singaram Villages of Kodapak Mandal , Medak District, a Division Bench of this Court in **Kondakandla Yadaiah and others Vs. State of Telangana and others**² passed an *interim* order observing that the *contracts being made by the State Government under the said G.O. violate the statutory rights of affected families, other than the landowners, which are protected by the provisions of the Act 30 of 2013*; these contracts are of a nature which, if permitted, to be continued to be made, would defeat the provisions of the Act; they *prima facie* violate Section 23 of the Indian Contract Act; and the State Government should not be permitted from the date of it's (Court's) order i.e. 05-01-2017 to enter into contracts under the said G.O. to purchase lands for construction

² 2018 (1) ALD 69 (DB)

of irrigation projects, without complying with the Rehabilitation and Resettlement provisions of the Act as stipulated under Schedules II and III thereto.

THE W.P.No.15444 OF 2018

20. As stated above , the petitioners in the C.C.No.1962 of 2018 are petitioner Nos.1 to 4 in the Writ Petition and petitioners in C.C.No.136 of 2019 are petitioner Nos.3, 7, 21, 24, 27 and 28 in the said Writ Petition.

21. They along with others had filed the said Writ Petition against the State of Telangana, represented by Principal Secretary, Revenue (JA & LA) Department and 7 others contending that they are residents of Thoguta village and Mandal, Siddipet District and are landless agricultural labourers; that they were earning their livelihood since generations by doing agriculture work in the lands of the said village and neighbouring villages; that the lands are fertile and multiple crops are raised in a year; that they would get work for most of the year except for one-two months in the summer season; during lean periods, they secure work under the Mahatma Gandhi National Rural Employment Guarantee Schemes; that the State Government had acquired in 2016 under G.O.Ms.No.123 dt.30-07-2015 about Ac.1000.00 in the Thoguta village for construction of a reservoir by name Komaravelli Mallannasagar Project (KMS project); some landowners in the village were compelled to sell away their lands under pressure and threats to the State Government; that landowners

were allowed to cultivate the lands till December, 2017; thereafter the respondents from January, 2018 started coming to the village and threatening the landowners not to cultivate the lands any further stating that the lands would be taken over at any time and construction works will be started.

22. Petitioners contended that when they questioned the authorities about loss of their livelihood, the authorities did not respond; they gave representations in writing also, which were not responded to; and the petitioners would be forced to migrate from the village since they did not have any source of livelihood in the village.

23. They contended that *landless agricultural workers* dependent on the lands under acquisition for their livelihood are also '*project affected families*' and are entitled for rehabilitation benefits under Act 30 of 2013 and the I Schedule under G.O.Ms.No.120 dt.30-06-2017; that a Division Bench of this Court in W.A.No.677 of 2016 specifically recorded that until rehabilitation benefits mentioned under Schedule II of Act 30 of 2013 are provided to all the project affected families, possession of the land shall not be taken, even if the lands are procured under G.O.Ms.No.123 dt.30-07-2015 and consideration was paid to the landowners.

24. They contended that the respondents cannot start construction works without providing petitioners Rehabilitation and Resettlement benefits (R & R benefits); and the action of the respondents in

attempting to do so violates Act 30 of 2013 as amended by Act 21 of 2017 apart from Article 14 and 21 of the Constitution of India.

25. They therefore sought a Writ of Mandamus declaring the action of the respondents in proceeding to take away possession and start construction activities for KMS project in the lands procured under G.O.Ms.No.123 dt.30-07-2015 in Thoguta village and Mandal without preparing R & R Scheme and providing rehabilitation entitlements to all project affected families like petitioners violates Article 14 and Act 30 of 2013 as amended by Act 21 of 2017 and to direct the respondents not to take possession of lands procured under G.O.Ms.No.123 dt.30-07-2015 until all the provisions relating to R & R are fully complied with.

I.A.No.1 OF 2018 IN W.P.No.15444 OF 2018

26. They also filed I.A.No.1 of 2018 to direct the respondents not to take possession of the lands in Thoguta village and Mandal procured under G.O.Ms.No.123 dt.30-07-2015 while allowing agricultural operations to continue in the said lands pending disposal of the Writ.

THE INTERIM ORDER IN I.A.No.1 OF 2018 ON 25-06-2018

27. On 25-06-2018, in I.A.No.1 of 2018, this Court passed an *interim direction directing the respondents in the Writ Petition not to take possession of the lands in the said village and Mandal procured under G.O.Ms.No.123 dt.30-07-2015 and allow agricultural operations to continue therein pending disposal of the Writ Petition.*

28. While doing so, this Court relied upon the order dt.18-06-2018 of a Division Bench of this Court in W.A.No.812 of 2018 wherein the Division Bench considered a similar issue in respect of Etigadda Kistapur village and Vemulaghat village where lands were procured under G.O.Ms.No.123 dt.30-07-2015 and possession was being taken without following provisions of Rehabilitation and Resettlement for the purpose of KMS reservoir.

29. The Division Bench in the said Appeal had recorded the statement of the Additional Advocate General for the State of Telangana that an undertaking was given before the learned Single Judge by the Administrator for R & R and Joint Collector, Siddipet (6th respondent in WP.No.15444/2018) that *even though the land was procured, farmers were in possession and cultivating the land and project work will not be commenced in Etigadda Kistapur and Vemulaghat villages till payment is made as per the provisions of the Act.*

30. The Division Bench took note of Section 38(1) of Act 30 of 2013 which prohibited the Collector to take possession of the land acquired under the said Act without paying/tendering to entitled persons within three months full compensation as well as Rehabilitation and Resettlement entitlements listed in the II Schedule commencing from the date of the Award made under Section 30 of the Act; and Sub-Section (2) of 38 which made the District Collector responsible for ensuring that the Rehabilitation and Resettlement

process is completed in all respects before displacing the affected families.

31. The Division Bench also took note of the fact that the lands in those villages were *purchased* by the State under G.O.Ms.No.123 dt.30-07-2015, but the landowners were still in possession of land and were cultivating the lands and there was no *acquisition* under Act 30 of 2013 of the said lands; and *it directed that only after complying with R & R requirements of Act 30 of 2013, the respondents can take possession of the lands in Vemulaghat village since the petitioners (in the Writ Petition out of which the said Writ Appeal arose), are landless agricultural labour earning their livelihood by doing agricultural work in the lands in Vemulaghat village and not in other villages.*

32. Since the petitioners in WP.No.15444 of 2018 were landless agricultural labourers in Thoguta Village (a village near the Vemulaghat village in respect of which the Division bench passed the above order) where also lands were procured/purchased by the State under G.O.Ms.No.123 dt.30-7-2015, this Court, while granting the above interim order on 25-6-2018 in I.A.No.1/2018 in the said Writ Petition applied the Division Bench order in W.A.No.812/2018 dt.18-6-2018 and granted interim relief.

33. It was the intention of the Court, while granting the interim order, to ensure that at the earliest the R&R benefits are disbursed to the agriculture labour like petitioners and the KMS Reservoir Project

is expedited, since very large sums of money were being spent on it. The Court never expected the respondents to ignore the provisions of the Act relating to R & R, as is apparent from the discussion *infra*, and blatantly violate Sec.38 of the Act causing hardship to the petitioners.

34. It is very important to note that the State Government had framed vide G.O.Ms.No.50 Revenue JA & LA dt.19.12.2014, the Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 setting out procedure how R & R benefit entitlements have to be decided and disbursed.

35. Rule 19 thereof contemplates a preliminary notification to be published by tom tom or by affixture in conspicuous places and in the Gazette, updating of land records in the village, a preliminary survey by persons appointed by the Collector under Rule 20, hearing of objections under Rule 21, Survey under Rule 22(1) by Administrator for R & R and conduct of census by him of affected families, preparation of a Draft R & R scheme under Sub-Rule (3) of Rule 22, conduct of a Gram Sabha under Sub-Rule (4) of Rule 22 and a public hearing under Sub-Rule (5) of Rule 22 and publication of the R & R scheme thereafter under Rule 23. Then award for compensation and R & R benefits under Rule 25 and 27 has to be done and payment should be made as provided in Rule 28.

36. Having framed such Rules, the respondents in the Writ Petition failed to implement every single one of them in relation to the 'project affected families' in Thoguta Village like the petitioners.

37. Why the State Government has adopted such a course of action causing grave hardship to the poor farmers and agricultural labour who are land less residents of the village, is inexplicable. After all, the costs of R & R would be a very small fraction of the total KMS project cost, which according to the Special Government Pleader appearing for the Additional Advocate General, is more than Rs.80,000 crores.

38. It is also important to note that the respondents did not file any application to vacate the interim order granted on 25-06-2018 in I.A.No.1 of 2018 in W.P.No.15444 of 2018 nor have they challenged it by way of a Writ Appeal under Clause (15) of the Letters Patent.

C.C.No.1962 of 2018

39. Alleging that respondent Nos.1 to 4 in the Contempt Case (who are respondent Nos.5 to 8 in the Writ Petition) and the Sub-Inspector of Police, Thoguta Police Station and the Superintending Engineer, Irrigation and CAD Department (O/o.Kaleswaram Project-Division-II), Gajwel, Siddipet District have violated the said order and started preparatory work for construction by engaging private contractor on 29-06-2018 ignoring the above interim order granted by this Court and the representation

dt.27-06-2018 given by the petitioners about the said order, they filed this Contempt Case in July, 2018.

40. It is specifically asserted that when the petitioners in the C.C. along with others showed the interim order of this Court and asked the respondents in the C.C. not to take up any works, the Sub-Inspector of Police, Thoguta Police Station threatened the petitioners with severe consequences including causing their disappearance. They also alleged that he tore away the orders of the Court and stated that they are of no use and he did not care about it and threatened the petitioners that they would face consequences if they dare to come near the lands. It is also stated that he used filthy language and abused the petitioners and their family members, which frightened the petitioners. They also stated that they gave representation on 02-07-2018 and 07-07-2018 to the respondents but no action was taken.

41. They alleged that the Superintending Engineer, Irrigation and CAD Department (O/o.Kaleswaram Project-Division-II), Gajwel, Siddipet District commenced pooja for doing work on 11-07-2018 in the lands in Thoguta village and declared that the full scale work would be taken up on 12-07-2018.

42. Petitioners filed I.A.No.1 of 2018 in the Contempt Case to grant leave to file the said Contempt Case against the Sub-Inspector of Police, Thoguta Police Station and the Superintending Engineer, Irrigation and CAD Department (O/o.Kaleswaram Project-Division-

II), Gajwel, Siddipet District *eo nomine*. On 27-07-2018, leave was granted as sought.

43. Petitioners therefore sought that respondent Nos.1 to 4 as well as the Sub-Inspector of Police, Thoguta Police Station and the Superintending Engineer, Irrigation and CAD Department (O/o.Kaleswaram Project-Division-II), Gajwel, Siddipet District should be punished for willful disobedience of the order dt.25-06-2018 in I.A.No.1 of 2018 in W.P.No.15444 of 2018 under Section 12 of the Contempt of Courts Act, 1971.

The events after filing of the CC.No. 1962 of 2018

44. Notices in this Contempt Case were served on all six respondents.

45. The Additional Advocate General filed vakalat for respondent Nos.1 to 4, separate counter-affidavits were filed by respondent Nos.1 to 4.

46. The respondent No.5 i.e. the Sub-Inspector of Police, Thoguta Police Station did not engage a counsel or file a counter though notice in the Contempt Case No.1962 of 2018 was served on him.

47. The respondent No.6 did not file a counter but filed objections to an Advocate-Commissioner's report as mentioned below.

THE APPOINTMENT OF ADVOCATE COMMISSIONER AND HIS REPORT

48. On 27-07-2018 in C.C.No.1962 of 2018, this Court appointed Sri M.Ravindranath Reddy, Advocate as an Advocate-Commissioner

to visit Thoguta village and submit a report by 06-08-2018 as to whether allegations leveled by petitioners against the respondents in the Contempt Case were right or not.

49. A list of survey numbers in Thoguta village where excavation work was allegedly commenced by the respondents in the Contempt Case contrary to the interim order granted in the Writ Petition was furnished to the Advocate-Commissioner by the counsel for the petitioners.

50. In his report dt.08-08-2018, the Advocate-Commissioner stated that he visited the Thoguta Village on 01-08-2018 after issuing notices to Counsel for petitioners and to the Special Government Pleader attached to the Office of the Additional Advocate General in the High Court Sri A.Sanjiv Kumar; that the Tahsildar, Thoguta, Deputy Executive Engineer, Irrigation Dept, Circle-III, KMS project, Asst.Engineer, Irrigation Dept etc were present when he visited the lands; that he observed that the work has been done only in some of the survey numbers given in the said list; that *the work has been commenced in survey numbers mentioned in the annexure to the report and this work can also be said to have done within a week to 10 days back*. According to the Advocate-Commissioner, this is evident because, it is visible to naked eye, and the surrounding lands of these survey numbers are lush green with growth of grass, herbs, shrubs bushes, plants etc., which is also captured in the photographs enclosed to the report, whereas in the Survey Numbers, *in which work has been done, the land is absolutely bereft of any such growth of*

shoots, grass, shrubs, bushes, plants etc. Most of the photographs bearing Nos.1 to 19 filed with the report demonstrate the physical features of land namely growth and land bereft of the said growth. This is more particularly noticed in Photograph Nos.20 to 22. He also mentioned that the sand of huge extent, approximately 10 cubic meters has been carted from Mid Manair Dam, Sircilla and stacked in these lands (as per the information given by the Engineers present). The black soil is also been stacked in some lands and according to the Engineers present, this black soil is used to pack the *trench to be dug* in the middle of the Bund of the Reservoir. The said bund is said to be of the width of about 350 to 450 meters and of the height of maximum of 61.5 Mts., though it will be '0' height at the ends, according to the Engineers present. Further, the Trench is part of the design of bund and the said trench comes in the midst of the bund and the said trench is proposed to be packed up with black soil as per the design according to the Engineers. *The Advocate Commissioner found that in most of the land in which the work has been done, the top soil to an extent of about 1 ft., or more has been removed* and according to the Engineers, the top soil has to be removed for formation of the bund, as per norms and design. It is also noticed that the said top soil has been stacked in some of the survey numbers. Out of the survey numbers mentioned in the List, the lands of Survey Numbers shown in the Annexure alone were pointed out by the counsel for petitioners and his clients, and accordingly those were inspected.

51. Thus according to the Advocate Commissioner's report the top soil to the extent of 1 ft or more has been removed by the respondents' in the CC, and since he stated that this occurred ten days prior to his visit on 01.08.2018, his report supports the claim of the petitioners in the WP.No.15444 of 2018 that there has been a violation of the interim order dt.25-06-2018 in I.A.No.1/2018 in the said W.P.

OBJECTIONS FILED BY THE SUPERINTENDING ENGINEER (6th RESPONDENT) TO THE ADVOCATE COMMISSIONER'S REPORT.

52. According to the 6th respondent, Contractors/ Executing Agencies employed by Irrigation Department i.e., M/s.RC-MEIL-HES (JV) and M/s.HES-GAYATRI-NCC (JV) *seem to have collected soil sample by leveling part of the lands* acquired under G.O.Ms.No.123 dt.30-07-2015 *and which are covered by the interim order* dt.25-06-2018 in I.A.No.1 of 2018 in W.P.No.15444 of 2018.

53. He claimed that on receiving from the petitioners information about the activities of the Agencies, the Joint Collector (2nd respondent), who is the Project Administrator, Rehabilitation and Resettlement, issued a letter dt.26-07-2018 not to take any construction activity under G.O.Ms.No.123 dt.30-07-2015 in Thoguta village; and on receiving it, he (6th respondent) instructed the Executing Agencies by a Memo dt.26-07-2018 not to take any construction activity in the lands in Thoguta village procured under G.O.Ms.No.123 dt.30-07-2015.

54. He stated that he did not visit any of the lands and he did not instruct the Executing Agencies to commence construction activity; and according to him, except leveling of land, the Agencies did not undertake any construction activity; and *such leveling was also done only in grazing lands where there was no standing crop within 10 days prior to the visit of the Advocate-Commissioner*. According to him, machinery used by the Agencies was lying in lands not covered by the Interim Order. He denied that there was any flouting of the orders of this Court.

55. **Identical stand is taken in the counter affidavits of respondents 1 to 4.**

The findings of the Court in C.C. No.1962 of 2018

56. As already pointed out above, the interim order dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018 directed the respondents *not to take possession of lands in Thoguta village and Mandal procured under G.O.Ms.No.123 dt.30.07.2015 while allowing agricultural operations to continue therein*.

57. But the Advocate Commissioner's report dt.08.08.2018 shows that within ten days prior to his visit on 01.08.2018, *top soil to an extent of about 1 ft or more has been removed in Sy.Nos.398, 397, 429, 430, 431, 463, 461, 465, 591, 589, 588, 572 to 577 and 568*.

58. All the respondents admit that leveling of land, procured under G.O.Ms.No.123 dt.30.07.2015 and which are *partly covered* by the interim order, was done to enable the executing agency to collect

allegedly certain soil samples for the purpose of testing. They contended that these are grazing lands and there is no standing crop.

59. For taking soil samples for purpose of testing, large extents of lands need not be leveled as the executing agencies/contractors hired by the respondents had done. This plea of collection of soil samples is a patently false plea.

60. Leveling of land cannot be done unless possession of land is taken and since the respondents admit about leveling, it means they took possession of the lands partly covered by the interim order *after the interim order was passed* on 25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018.

61. Whether or not construction activity was done in the lands covered by the interim order is wholly irrelevant.

62. Also no material is placed by respondents to show that leveling was done only in *grazing lands and not in cultivable agricultural lands*.

63. Admittedly they were informed about the activities in the lands by the Contrators/Executing Agencies through petitioners' representations dt.27.06.2018, 29.06.2018, 02.07.2018, 07.07.2018 and 13.07.2018. But none of the respondents gave any reply to any of the petitioners in regard to the said representations.

64. Though the Special Government Pleader Sri A.Sanjiv Kumar appearing for the Additional Advocate General contended that except

doing puja in the lands covered by the interim order, nothing else was done, the report of the Advocate Commissioner, the admissions in the counter affidavits of respondents 1 to 4 as well as objections of respondent No.6 referred to above, show that there is no merit in his plea. Much more than mere puja was done in the lands covered by the interim order.

65. His further plea that respondents 1 to 4 and 6 gave oral instructions to the Executing Agencies/Contractors not to do any activity in the subject lands cannot be believed because there is no reference to any such oral instructions in any of the counter affidavits of the respondents.

66. The Joint Collector, Siddipet District (2nd respondent), who is the Administrator for R & R, except writing a letter No.G1/1684/2018 dt.26.07.2018 not take up any construction activities in the lands procured under G.O.Ms.No.123 dt.30.07.2015, has not done anything to stop the taking of possession or leveling of the lands by removing all foliage therein which was prohibited by the interim order dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018. Even the said letter was written by him after the C.C. No.1962 of 2018 was filed by the petitioners probably to make it appear that he was doing something. Why he did not take up any R & R enquiries as per the procedure in G.O.Ms.No.50 Revenue JA & LA dt.19.12.2014 i.e., the Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 and settle the claims of the petitioners is not explained.

67. Without paying R&R entitlements to the petitioners, under Section 38 of Act 30 of 2013, the land owners could not have been dispossessed as observed in the order dt.18.06.2018 in W.A. No.812 of 2018 by the Division Bench of this Court.

68. The importance of rehabilitation was emphasized by the Supreme Court in **State of M.P. v. Narmada Bachao Andolan**³ in the following words:

“Rehabilitation on the other hand, is restoration of the status of something lost, displaced or even otherwise a grant to secure a dignified mode of life to a person who has nothing to sustain himself. This concept, as against compensation and property under Article 300-A, brings within its fold the presence of the elements of Article 21 of the Constitution of India. Those who have been rendered destitute, have to be assured a permanent source of basic livelihood to sustain themselves. This becomes necessary for the State when it relates to the rehabilitation of the already depressed classes like Scheduled Castes, Scheduled Tribes and marginal farmers in order to meet the requirements of social justice.”

69. The 6th respondent claimed to have written a letter on 26.07.2018 to the Executing Agencies not to take up any construction activity. As an employee of the Irrigation and CAD Department of the State of Telangana, he is bound by the interim order to which the State of Telangana represented by its Principal Secretary, Irrigation and CAD Department, is a party.

³ (2011) 7 SCC 639

70. The other respondents 1, 3 and 4 did nothing at all to stop the above activities.

71. The Sub-Inspector of Police, Thoguta Police Station has not filed any counter affidavit denying the allegations leveled against him in para 4 of the affidavit filed in support of the contempt case that he threatened the petitioners, tore away the interim order copy of this Court in I.A. No.1 of 2018 in W.P.No.15444 of 2018 or abused in filthy language petitioners and their family members. Therefore, these allegations are deemed to have been admitted.

72. Threatening the petitioners for protesting violation of the interim orders passed by this Court is condemnable and he was obviously acting on the instructions of respondent No. 6/Executing Agencies employed by the Irrigation and CAD Department.

73. In this view of the matter, I am satisfied that the respondent Nos.1 to 4 and 6 have deliberately and willfully abdicated their duty to implement the order dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018 and respondent No.6 allowed the Executing Agencies to violate the interim order, take possession of the lands covered by the interim order, level them by clearing all foliage in the said lands and the 5th respondent facilitated the same by intimidating the petitioners. The apology tendered by 6th respondent cannot be accepted since there is no contrition or remorse.

74. But since respondents 1-4 have no control over the activities of respondents 5 and 6 and the executing agencies/contractors engaged

by the Irrigation & CAD Department, they are not liable to be punished for violating the interim orders dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018.

75. Accordingly, C.C. No.1962 of 2018 is partly allowed and the respondents 5 to 6 therein are found to have willfully and deliberately violated the orders dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018 and are held guilty of Contempt of Court. The respondent No.5 and 6 are sentenced to two months simple imprisonment with fine of Rs.2,000/- to be paid in six weeks and an adverse entry shall be made in their Service Record. The sentence of imprisonment imposed on respondent No.5 and 6 is suspended for a period of six weeks. The petitioners shall deposit batta of Rs.150/- per day for respondents 5 and 6 each within six weeks.

C.C.No.136 OF 2019

76. As stated above, this Contempt Case was filed by petitioners 3, 7, 21, 24, 27, 28 in W.P.No.15444 of 2018 in February, 2019 alleging that persons holding positions of District Collector, Revenue Divisional Officer and Tahsildar (against whom the earlier C.C. No.1962 of 2018 was filed) were transferred and new persons were appointed in their place in September/October, 2018; and in October, 2018, again Contractors engaged by the Official respondents in the Writ Petition started coming with heavy machinery and tried to start work in the lands in Thoguta village.

77. Petitioners alleged that on their representation, the work was temporarily stopped; but after the Sankranthi festival in the second week of January, 2019, personnel of the contractors/Executing Agencies started trying to clear and dig out the lands with heavy machinery; and when the petitioners protested, the personnel of the contractor/Agency and police threatened the petitioners with dire consequences.

78. They impleaded as respondents in the Contempt Case No.136 of 2019 the newly appointed (i) District Collector, Siddipet District, (ii) Special Deputy Collector (Land Acquisition), Kaleswaram Project Unit-III-cum-Revenue Divisional Officer, Siddipet Division, Siddipet and (iii) Tahsildar, Thoguta Mandal, all by name.

79. They also filed I.A.No.2 of 2019 seeking leave to file the Contempt Case against the newly appointed Executive Engineer (Irrigation and CAD) Department, K.P.Construction Division-7, Gajwel, Siddipet District and Project Manager, M/s.Raghava Constructions Private Limited, Construction Camp Office, Thoguta village and Mandal, Siddipet District.

80. Leave was granted to file the Contempt Case against the above two persons by order dt.04.02.2019 in I.A. No.2 of 2019.

81. On 04.02.2019 another interim order was granted in C.C. No.136 of 2019 as under:

“Pending further orders, respondents 4 and 5 are restrained from doing anything in violation of the order

dated 25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018.”

82. On 05.02.2019, the Special Government Pleader attached to the office of the Additional Advocate General took notice for all the respondents and sought two weeks time to file counter. Matter was adjourned to 11.02.2019.

83. The case was next listed on 13.02.2019 and counter affidavits were filed by respondents 1 to 4 on the said date.

84. The case was then adjourned to 18.02.2019. On that date counsel for petitioners sought time to file additional affidavit mentioning the particulars of the survey numbers and specific activity being carried on therein contrary to the orders of this Court along with the photographs. Sri B.Ramulu took notice for 5th respondent and sought time to file counter. The case was then adjourned to 05.03.2019.

85. On 06.03.2019, when the matter was taken up counsel for the petitioners stated that he had filed the additional affidavit giving particulars and the Special Government Pleader then sought time to file additional counter.

Order dt.20.03.2019 appointing the Principal District Judge, Medak District at Sanga Reddy to make a visit and submit a report to this Court:

86. The case was next listed on 20.03.2019 and on that day no additional counters were filed on behalf of the respondents.

87. The Court thought it fit to direct the Principal District Judge, Medak District at Sanga Reddy in whose jurisdiction the lands mentioned by the petitioners fall, to visit them after giving notice to counsel for the petitioners as well as respondents 1, 4 and 5 and submit a report to this Court as to whether the allegations leveled by the petitioners against the respondents regarding changing the physical features of the said lands, were correct or not.

88. In the said order, as an annexure, the details of the survey numbers, extents, names of the pattedars, nature of work being done by the contractor and the month and year when such work was started were also mentioned.

Report dt.02.04.2019 of the Principal District Judge, Medak at Sanga Reddy:

89. The Principal District Judge, Medak visited the lands mentioned in the annexure to the order dt.20.03.2019 on 28.03.2019 after issuing notices on 23.03.2019 to the counsel for petitioners and to respondents 1, 4 and 5 in the C.C. Respondents 1, 4 and 5 and other officials also participated in the inspection proceedings conducted by the Principal District Judge.

90. In her report, the Principal District Judge stated that *on physical verification of the lands mentioned in the annexure to the order in the C.C., it was prima facie noticed that most part of the soil on the ground is smooth and dusty; there are trenches dug in the lands indicating that digging activity and cleaning up of the lands, is recent.*

The lands are cleared of all the bushes and plants, ground is found leveled (photographs are enclosed as Annexure III to the report).

91. She stated that 5th respondent when questioned as to whether he carried out construction activities in the lands mentioned in the Annexure to the order in the C.C. after passing of the orders dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018 and after passing of orders in this C.C. on 04.02.2019 stated that *he carried out construction activities in the subject lands about three months back on the instructions of the Engineer-in-Chief, Kaleshwaram Project, Erramanzil, Jalasoudha Building, Hyderabad.*

92. The Principal District Judge concluded that *construction activities have been taken up recently by respondent No.5 and prior to her inspection as could be seen from one of the photographs at the bottom in Annexure-III in Sy.No.574, 575 and that the work is in progress.*

93. The Principal District Judge also got prepared a location map of the subject land depicting the status of the lands as on the date of her visit as Annexure-IV. The said sketch indicates bulldozed land area, bund trench area etc.,

Objections filed to the said report of the Principal District Judge by the first respondent.

94. The first respondent filed objections dt.21.04.2019 to the above report and in the said objections *he did not dispute the findings of the Principal District Judge, Medak in her report dt.02.04.2019 but stated as under:*

“Paragraph 16 states that there are indications that the digging activity and cleaning up of land is recent. It would be difficult for the 1st respondent to offer an expert valuation of the state of land, except that where there was shifting of earth, there did not seem to be any immediate evidence of recent cropping, and that there were also standing crops noticed in the vicinity of the same area.”

95. He however claimed that the Engineering Department or the Agency engaged by it for the Kaleshwaram Project do not report to him and his office has nothing to do with the terms and conditions of their professional engagement. According to him, they have a separate hierarchy with specific chain of command.

96. He also claimed in his objections that no Revenue record is maintained of agricultural labourers and it is not possible to mention status of the petitioners as agricultural labourers with certainty unless a formal field level enquiry is conducted. He claimed that the Project Administrator, R & R had conducted such enquiry and certain findings were communicated to petitioners by way of endorsements. He also claimed that claims of 29 persons including petitioners for R & R benefits were rejected. He contended that petitioners have a remedy under Section 64 of Act 30 of 2013 to appeal before the Authority set up under the Act.

The consideration by the Court:

97. When the matter was listed on 23-04-2019 and 30-04-2019 after hearing submissions of the learned Additional Advocate General, the Office of the Additional Advocate General was granted time to produce material evidence to show how the provisions of Sections 16

to 18 of Act 30 of 2013, which deal with R & R, were complied with by respondents, and the matter was directed to be listed on 01-05-2019 in Motion List as first item under the caption 'part heard'.

98. On 01-05-2019, the Additional Advocate General did not appear though the matter was listed as the first item under the caption 'part heard'. No valid reason is assigned for his absence. No material was also produced by his Office to show compliance with the above provisions of Sections 16 to 18 of Act 30 of 2013. Once the matter was listed as the first item at his request since he did not make himself available and make further submissions, his arguments are taken as heard and orders in the Contempt Case were reserved on 01-05-2019.

99. As regards the above referred objections of 1st respondent, it is to be noted that there are no such averments in the counter affidavit filed by him and respondents 2 to 4.

100. Along with the counter affidavits a letter dt.29.01.2019 given by 4th respondent to the Executing Agencies is filed, which only cautions the said Agencies that they would be held responsible for further consequences of the Contempt Case. The 4th respondent cannot thus wash off his hands by addressing a single letter since it is his department which engaged them and it was his duty to stop the Agencies from violating the orders of this Court, which he did not discharge.

101. Endorsements dt.16.03.2019 issued to some of the petitioners by the Joint Collector and Administrator for R & R rejecting their claims for R & R benefits have been filed by the petitioners along with reply to objections.

102. The endorsements indicate that the Joint Collector requested the Special Deputy Collector (Land Acquisition), Kaleshwaram Project, Unit-I, authorized officer and Revenue Divisional Officer, Siddipet (2nd respondent), to get the matter enquired into about the writ petitioners' socio economic status and their traditional profession/nature of work in consultation with other departmental officials in the village and submit report; that the Revenue Divisional Officer, Siddipet directed Tahsildar, Thoguta (3rd respondent) to get the matter enquired; that Tahsildar personally enquired in consultation with other departmental staff/officials and submitted a report referring to 2011 census and they are not agricultural labourers.

103. This procedure adopted by the Joint Collector regarding the claims of the petitioners as agricultural labourers is wholly contrary to Sections 16 to 18 of Act 30 of 2013 and the G.O.Ms.No.50 Revenue JA & LA dt.19.12.2014 under which the Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 were notified. There was no survey, Census, Gramsabha, public hearing as contemplated under the above G.O.

104. Behind the back of the petitioners, there cannot be any enquiry to reject their claims for R & R benefits and any endorsements issued by the Joint Collector do not bind the petitioners and are null and void on account of violation of procedure in the said G.O as well as principles of natural justice.

105. I hold that the so-called endorsements given by the Joint Collector and Administrator R & R are a complete eye wash and are declared as *non est* in law.

106. The findings of the Principal District Judge that there are trenches being dug in the subject lands is a matter of record and clearly shows the blatant disregard the respondents have for this Court's orders.

107. Though the Additional Advocate General stated that at the highest levels of the Government there is a desire to properly give R & R benefits and some funds were also earmarked, when the said desire is only theoretical and nothing is done to carry forward it, this Court has no option but to take a very serious view of the matter particularly when there is a gross violation of its orders and the respondents have denied benefits to petitioners in violation of procedure in G.O.Ms.No.50 Revenue JA & LA dt.19.12.2014 under which the Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 were notified.

108. The Additional Advocate General also contended that huge expenditure has been incurred for the project and so it's execution cannot be delayed. When the respondents have exhibited no intention to grant R & R entitlements of petitioners and have shown their disregard to mandatory provisions of Sec.38 of Act 30 of 2013, they cannot take such a plea. Considering the magnitude of the project, nothing prevented the respondents to enforce the Act, it's provisions, Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 and the orders passed by this Court in I.A. No.1 of 2018 in W.P. No.15444 of 2018. As pointed out above, no application to vacate the said interim order has been filed nor has it been challenged in a Writ Appeal till date.

109. This Court is convinced that there has been a willful and deliberate violation of the said orders by the respondents by their act of taking possession of the subject lands, leveling them by removing all foliage therein and by digging trenches.

110. However, since respondents 1-3 are not having any control of the activities of respondents 4 and 5, they cannot be punished for Contempt of Court.

111. It is shocking that the respondents 4 and 5 have brazenly violated the orders dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018 after CC.No.1962 /2019 was filed by committing further Contempt, and even after interim order dt.04.02.2019 was

passed in CC.No.136 of 2019. The apologies tendered by them cannot be accepted since there is no contrition or remorse.

112. Accordingly, C.C. No.136 of 2019 is allowed and respondents 4 to 5 are found to have willfully and deliberately violated the orders dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018 and are held guilty of Contempt of Court. The respondent Nos.4 and 5 are sentenced to simple imprisonment for three months and fine of Rs.2,000/- each which shall be paid within six weeks and there shall be an adverse entry in the Service Record of 4th respondent about violation of the Court orders. The sentence of imprisonment imposed on respondents 4 and 5 is suspended for six weeks. Petitioners are directed to deposit batta at Rs.150/- per day for each of respondents 4 and 5.

113. Accordingly,

i) C.C. No.1962 of 2018 is partly allowed and the respondents 5 to 6 therein are found to have willfully and deliberately violated the orders dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018 and are held guilty of Contempt of Court. The respondent No.5 and 6 are sentenced to two months simple imprisonment with fine of Rs.2,000/- to be paid in six weeks and an adverse entry shall be made in their Service Record. The sentence of imprisonment imposed on respondent No.5 and 6 is suspended for a period of six weeks. The petitioners shall deposit batta of Rs.150/- per day for respondents 5 and 6 each within six weeks;

and

ii) C.C. No.136 of 2019 is also partly allowed and respondents 4 to 5 therein are found to have willfully and deliberately violated the orders dt.25.06.2018 in I.A. No.1 of 2018 in W.P. No.15444 of 2018 and are held guilty of Contempt of Court. The respondent Nos.4 and 5 are sentenced to simple imprisonment for three months and fine of Rs.2,000/- each which shall be paid within six weeks and there shall be an adverse entry in the Service Record of 4th respondent about violation of the Court orders. The sentence of imprisonment imposed on respondents 4 and 5 is suspended for six weeks. Petitioners are directed to deposit batta at Rs.150/- per day for each of respondents 4 and 5 within 6 weeks.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 03-06-2019
Vsv/Lsk