

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CONTEMPT CASE NO.216 OF 2019

in

WRIT PETITION No.25511 OF 2018

ORDER:

Heard the counsel for petitioners and Sri A. Sanjeev Kumar, Special Government Pleader on behalf of the Additional Advocate-General, for the respondents.

2. This Contempt Case is filed complaining of willful disobedience of the order dt.25.07.2018 in W.P.No.25511 of 2018 passed by this Court.

The W.P.No.25511 of 2018

3. Petitioners are agricultural labourers and had assailed in the Writ Petition the inaction of the respondents in considering their objections filed on 15.09.2017, 19.01.2018, 21.01.2018, 31.01.2018, 01.02.2018, 06.02.2018, 21.05.2018, 22.05.2018 and 23.06.2018 under Section 15(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation Act, 2013 (Act 30 of 2013) to the Notification issued under Section 11(1) of the said Act in Form – C vide proceedings No.G1/681/2017 dt.29.07.2017 proposing to acquire lands in Vemulaghat Village, Thoguta Mandal, Siddipet District, for the purpose of Komaravelli Mallannasagar Reservoir (K.M.S.) as part of the Kaleswaram Lift Irrigation Scheme.

4. It was their contention that complete details of the proposed project in Telugu Language were not provided before the conduct of the enquiry under Section 15(2) of the Act to enable them to understand and file detailed objections; Grama Sabha under Section 11(2) of the Act was conducted on 21.10.2017 wherein there was an assurance from the respondents that project details would be provided within a week or two in Telugu Language but it was not done; and a declaration under Section 19(1) of the Act was issued on 16.5.2018. It was contended that some of the project-affected persons had filed W.P.No.43877 of 2017 challenging the notification G1/681/2017 dt. 29.7.2017 issued under Section 11(1) of the Act as well as the consequent declaration under Sec.19 (1) of the act issued on 23.11.2017 and the same was set aside on 05.01.2018 directing the respondents to hear and dispose of all objections as per the Act. It is contended that again without furnishing details of the project, hearing was conducted on 31.01.2018 and 01.02.2018 wherein the Land Acquisition Officer stated that the documents sought by the petitioners were not available in his Office. Nothing happened for three months and suddenly on 16.05.2018, copy of proceedings dt.04.05.2018 issued by the District Collector, Siddipet District (1st respondent in the Contempt Case) was affixed in the Gram Panchayat falsely stating that the documents requested by petitioners were provided and that petitioners' objections were disposed of. They contended that the said proceedings only mentioned that one Hayathuddin was provided documents in Telugu, that those

documents were not put in public domain, i.e., either in the Panchayat Office or Web-Site; and thereafter, declaration under Section 19(1) of the Act was issued on 16.05.2018 and Awards were also passed on 25.06.2018; and the respondents were proceeding to take immediate possession of the lands of the landowners who could not approach the High Court.

The order dt.25.6.2018 in WP.No.25511 of 2018

5. On 25.06.2018, in the presence and with the consent of the Additional-Advocate General, the following order was passed :

“4. Therefore for reasons alike this Writ Petition is also allowed and the 6th respondent is directed to furnish the material sought by the petitioners regarding the project etc., in Telugu on or before 06-08-2018 by making available Telugu translation of Volume-I (15 copies of the DPR) of the said project which contains the gist of the DPR at the office of the Gram Panchayat, Vemulghat village, Thoguta Mandal, Siddipet District (erstwhile Mandal), Telangana State, and other Volumes in English of equal number in the said office for perusal of the petitioners; on or before 27-08-2018, the petitioners shall submit fresh objections, if any, on the basis of such material before the 6th respondent; and the 6th respondent shall conduct personal hearing to the petitioners or their counsel on 04-09-2018 at 10.30 a.m. at his office; and communicate his decision on the objections to the petitioners within four weeks thereafter. Also, the award already passed shall not be deemed to be an award governing the petitioners and a separate award, if need be, shall be passed for them under Section 31 of the Act. Further, in view of Section 38 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which prohibits taking of possession until full payment of compensation as well as rehabilitation and resettlement entitlements are paid to entitled persons including the petitioners herein, who claim to be landless agricultural labourers

entitled thereto under Section 16 of the said Act, there shall be stay on taking possession and initiation of any kind of construction activities by the respondent authorities in the lands procured under G.O.Ms.No.123 dt.30-07-2015 and under Section 30-A of the Act 21 of 2017 in Vemulaghat for the proposed Komaravelli Mallannasagar reservoir while allowing the agriculture operations to continue in the subject lands. No costs.”

6. This Court followed order dt.20.06.2018 in W.P.No.19572 of 2018 wherein the declaration dt.16.05.2018 issued under Section 19(1) of the Act was set aside as regards the petitioners therein.

7. Thus, as per the above order dt.25.7.2018 in WP No. 25511 of 2018, the Writ petition was allowed; and a time schedule was fixed for supply of the Detailed Project Report (D.P.R) in Telugu and English by making them available at the Office of the Gram Panchayat, Vemulaghat Village; time was granted to the petitioners to file fresh objections; the 3rd respondent herein was directed to conduct personal hearing on 04.09.2018; and communicate his decision on the objections of the petitioners within four weeks thereafter. It was directed that there shall be *stay of taking possession* and initiation of any kind of construction activity by the respondents in the lands procured under G.O.Ms.No.123 dt.30.07.2015 pending payment of compensation as well as rehabilitation and resettlement entitlements under the Act in view of Section 38 thereof; and that agricultural operations shall be allowed to continue in the lands in question.

Contentions of petitioners in the CC

8. In this Contempt Case, petitioners contend that not only were adequate copies of D.P.R. in Telugu not furnished to petitioners, no personal hearing was conducted, no enquiry was conducted, and no orders passed or communicated to the petitioners on their objections and no fresh declaration under Section 19(1) of the Act was issued.

9. They contended that the notification issued under Section 11(1) of the Act had lapsed because no declaration under Section 19(1) of the Act was issued within the one year period from its issuance on 30.07.2017, on 30.07.2018; but the District Collector, Siddipet (1st respondent) entered into agreement with land owners in January, 2019 invoking G.O.Ms.No.123 dt.30.07.2015; and executing agencies were engaged by respondents from 25.01.2019 who started clearing trees and digging in the lands at various places in the Vemulaghat Village. They contended that when petitioners objected, they were threatened by the officials of the Irrigation Department and contractors.

10. When legal notice was issued to all respondents in the Contempt Case [(except the Joint Collector and Administrator R & R, Siddipet District (2nd respondent)] on 28.01.2019 and 29.01.2019, the petitioners contended that 5th respondent returned the notice without receiving it while the other respondents stopped the work for a couple of days and again took up work on 06.02.2019. They contended that when they brought to the notice of the staff of the Superintendent

Engineer, Irrigation and C.A.D. Department, O/O Kaleswaram Project, Division – II, Gajwel, Siddipet District, the orders passed by the Court in W.P.No.25511 of 2018, they stated that the said orders were of no use since majority of land owners gave away their lands to the State and proceeded to dig up the lands by getting respondent nos. 5 and 7, who were employed in the Police Department, to threaten the petitioners.

11. On 08.03.2019, Leave was granted in I.A.No.1 of 2019 to file the Contempt Case against the 7th respondent, i.e., the Circle Inspector of Police, Thoguta Circle Police Station, Thoguta, Siddipet District.

The Interim order dt.8.3.2019 in the CC

12. On the same day, an interim direction was granted in Contempt Case No.216 of 2019 restraining the respondents in this Contempt Case from doing anything in violation of order dt.25.07.2018 in W.P.No.25511 of 2018 in the subject lands in Vemulaghat Village, pending further orders.

13. Counter-affidavits were filed by respondent nos.1 to 7 on 02/03.04.2019.

Re : Counters of respondents and Consideration of the same by the Court:

14. In the counter-affidavit of the 1st respondent, it is alleged that the Revenue Divisional Officer, Siddipet supplied all material directed by this Court in the order dt.25.07.2018 in W.P.NO.25511 of 2018, that he had conducted a personal hearing on 04.09.2018 and that

petitioners wanted more copies of D.P.R. and wanted another date for furnishing fresh objections; that thereafter on 06.09.2018, the State Assembly was dissolved prematurely and the District Collector, Siddipet (1st respondent) was appointed as Returning Officer to the Siddipet Assembly Constituency; and after completion of the election in December, 2018, 547 farmers *including some of the Writ Petitioners and present petitioners* came forward for an agreement with the respondents facilitating acquisition of their agricultural lands and other properties under Section 30-A of the Act 30 of 2013 (as amended by Act 21 of 2017) for a valid consideration and price and nearly 950 acres of balance agricultural lands of Vemulaghat Village were procured through such mechanism.

15. Petitioners are not land owners and are agricultural labourers. So, I hold that the above plea that petitioners entered into agreement with the State under Section 30-A is a false plea. Also no alleged agreement entered into by any of the petitioners under Sec.30-A was filed by the respondents fixing any compensation /R &R entitlements to them.

16. A further contention is raised in the counter that in the earlier Writ Petition No.19572 of 2018, the declaration dt.16.05.2018 issued under Section 19(1) of the Act, was set aside as regards petitioners therein and that it is in force for all other affected parties.

17. This contention is without merit because in W.P.No.25511 of 2018 declaration issued under Section 19(1) on 16.05.2018 was also questioned, and in para no.4 of the order, it was mentioned that the Writ Petition was allowed and it was specifically directed that objections of the petitioners under Section 15(2) of the Act have to be considered. Therefore, even as regards the petitioners in the CC, the declaration issued under Section 19(1) on 16.05.2018 has been set aside and only after consideration of objections of the petitioners, a fresh declaration under Section 19(1) would have to be issued.

18. It is contended that there is no bar for acquisition under Section 30-A of the Act through agreement with the land owner to procure the land.

19. This plea cannot be accepted because any action taken under Section 30-A by the respondents does not permit the respondents to take possession of the lands in Vemulaghat Village contrary to the order dt.25.07.2018 in W.P.No.25511 of 2018 wherein specifically this Court had directed stay of taking of possession and initiation of any kind of construction activities by the respondents in their lands *procured under G.O.Ms.No.123 dt.30.07.2015 and under Section 30-A of Act 21 of 2017 without paying full compensation and R & R benefits.* Therefore, the argument of the respondents relying on Section 30-A of the Act has no legs to stand.

20. Assuming for the sake of argument without conceding it to be correct, still under sub-Section (4) of Section 30-A, families of persons affected by acquisition of land *other than* land owners who had entered into an agreement, are still entitled to lumpsum compensation towards R & R from the State Government.

21. Also, a Division Bench of this Court on 18.06.2018 in W.A.No.812 of 2018 specifically held that in regard to agricultural labourers in Vemulaghat Village possession of the lands, even in accordance with law, can be taken from the land owners by the State *only after complying with R & R requirements of Act 30 of 2013*. This legal position is not disputed by the Special Government Pleader appearing for respondents. Thus, even if the lands are procured invoking Section 30-A of the Act, no possession can be taken in view of the above order passed by the Division Bench without paying R & R benefits to the petitioners.

22. Next, it is contended that on receiving complaints from petitioners, the District Collector, Siddipet, had addressed letters on 15.02.2019, 25.02.2019, 05.03.2019, 16.03.2019, 19.03.2019 and 22.03.2019 asking Engineer-in-Chief, Irrigation and C.A.D. Department, Superintending Engineer (6th respondent) and Executive Engineer to desist from taking any action in the Vemulaghat Village that could be in violation of the orders of the Court, and that no reply was received to the said letters from the said Officers. It is also stated that a survey of houses was started but was not completed, that socio-

economic survey was completed and proposals are ready to be sent for R & R to Commissioner (R & R) and to the Irrigation and C.A.D. Department.

23. From the above it is clear that except writing letters, the 1st respondent did not get any survey done before allowing the other respondents including the Irrigation and C.A.D. Department to commence work in the land and had not ensured that the Joint Collector and Administrator (R & R) (2nd respondent) carried out any R & R as per G.O.Ms.No.50 dt.19.12.2014 which laid down the Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 by following the detailed procedure for R & R laid down therein.

24. 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, 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.

25. It is further alleged by the respondents that out of fourteen petitioners, only six are landless and depends on agricultural operations and the rest depend on other activities.

26. How this conclusion could have been drawn by the 1st respondent without following the procedure prescribed in G.O.Ms.No.50 dt.19.12.2014 which contemplates a Gram Sabha, hearing of objections, decision on objections by the District Collector, public hearing, etc., is not explained by the 1st respondent. It is clear that the respondents had no bona fide intention to follow the provisions of the Act or the above rules and pay R & R benefits under the Act to the petitioners or to obey the orders passed by this Court in the Writ Petition No.25511 of 2018.

27. Certain copies of consent statements executed by petitioner No.2, 6, 3, 10, 11 have been filed along with the counter of the 6th respondent which indicate that the respondent No.6 had accepted that these persons have no agricultural land and are agricultural labourers. In these statements, it is stated that petitioners have been appraised in a public meeting that they will get more compensation than what is proved in Chapter-II of Act 30 of 2013 and so they intend to withdraw Writ Petitions and do not have any objection to proceed with the works relating to KMS Project. These statements do not bear any date and even the affidavit of the 6th respondent does not state when they gave it. Any such statement obtained from the said persons does not entitle the respondents to violate the order dt.25-07-2018 in

W.P.No.25511 of 2018 unless the said order is either modified or set aside in appeal.

28. The contents of counter of the 2nd, 3rd and 4th respondents are identical with the contents of the counter of 1st respondent, and do not require to be dealt with separately.

29. Also, respondent nos.3 and 4 in para nos.8 and 9 contend that possession was not given to Irrigation Department of any of the lands acquired and no works are being taken up and that the land owners are still continuing cultivation in the lands, but the 6th respondent, who is the Superintending engineer, Irrigation and C.A.D. Department states in para no.5 that *in more than 250 acres of land works were initiated and possession of lands procured under G.O.Ms.No.123 as well as under Section 30-A were taken long back* and no cultivation was being undertaken. Thus, the 6th respondent's counter reveals the true picture and shows the gross violation of the Act and the orders passed by this Court. Photographs filed along with the reply-affidavit by the petitioners also prove the blatant violation of the orders passed by this Court in W.P.No.25511 of 2018.

30. In the counter of the 5th and 7th respondents, they merely stated that they were present in the village of Vemulaghat on 06.02.2019 only to prevent law and order problem as they had received information that a huge crowd had gathered there and there were heated arguments exchanged and they never threatened anybody.

31. I find considerably force in the contention of petitioners that the respondents have only tried to provide reasons for not implementing the order dt.25.07.2018 and have not actually denied violating the said order. Admittedly, the objections of the petitioners have not been disposed of and no evidence of conduct of any personal hearing including proof of attendance of the petitioners or their representatives have been filed by respondents. No order disposing of objections of the petitioners under Section 15(2) of the Act have been passed by the respondents.

32. Dispossession contrary to the order dt.25-07-2018 in W.P.No.25511 of 2018 is admitted by 6th respondent and borne out by the photographs filed by the petitioners (which are also not disputed) and it is clear that the statement in the counter-affidavit of respondent Nos.3 and 4 that land owners are not yet dispossessed and are continuing agricultural operations, is a false plea intended to mislead the Court. The apology given by each of the respondents is bereft of contrition and remorse and does not deserve to be accepted. Therefore, respondent Nos.3, 4 and 6 are guilty of Contempt of Court and are liable to be punished therefor.

33. However, since respondent Nos.1 and 2 are not responsible for the violation of the order dt.25-07-2018 in W.P.No.25511 of 2018 and there is no specific evidence against respondent Nos.5 and 7 that they threatened the petitioners, they are not held guilty of Contempt of Court.

34. Accordingly the Contempt Case is allowed in part; respondent Nos.3 and 4 in the Contempt Case are held guilty of Contempt of Court by making false statements in the affidavits filed by them; respondent No.6 is also held guilty of Contempt of Court for commencing of works after dispossessing the land owners in the subject land in Vemulaghat village contrary to the order dt.25-07-2018 in W.P.No.25511 of 2018; and respondent Nos.3, 4 and 6 are sentenced to suffer three (03) months simple imprisonment with fine of Rs.2,000/- each to be paid in six weeks from the date of receipt of copy of this order. The sentence of simple imprisonment imposed on respondent NO.3, 4 and 6 is suspended for a period of six weeks. The petitioners shall deposit batta @ Rs.150/- each for the said respondents within six (06) weeks. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 05-07-2019
Ndr/Vsv