

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**CONTEMPT CASE No.203 of 2019**

**ORDER :**

This Contempt Case is filed alleging willful disobedience of the order dt.01-08-2019 in I.A.No.1 of 2018 in W.P.No.26136 of 2018.

2. The 1<sup>st</sup> petitioner herein owns Ac.6.30 gts in Sy.No.145/AA, 2<sup>nd</sup> petitioner owns Ac.4.20 gts in Sy.No.147/AA and 3<sup>rd</sup> petitioner owns Ac.6.00 gts in Sy.No.145/AA of Thipparam village, Kndapaka Mandal, Siddipet District.

3. A notification under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act') was issued vide proceedings No.G1/1033/2017 dt.08-06-2017 proposing to acquire Ac.59.26¼ gts of land in the said village for construction of Mallannasagar reservoir as part of Kaleswaram Project including the lands of petitioners.

4. Petitioners contended that no Gram Sabha was conducted under Section 11(2) of the Act and petitioners' objections under Section 15 of the Act were not heard and the objections raised by them during the process of award enquiry under Section 21 of the Act were also not considered. It is also contended in the Writ Petition that respondents

did not give any summary of Social Impact Assessment report to them.

5. According to petitioners, the respondents did not also provide for Rehabilitation and Resettlement as required under Sections 16 to 18 of the Act. Petitioners contended that only on 21-06-2018 through notices No.D/834/2017 issued by the Revenue Divisional Officer, Gajwel, they came to know about passing of the Award on 21-05-2018. They contended that the Award itself was back-dated and mandatory provisions of the Act were not followed.

6. Taking note of these contentions, on 01-08-2018, this Court in I.A.No.1 of 2018 in W.P.No.26136 of 2018 directed that *pending further orders, till Rehabilitation and Resettlement entitlements of the petitioners are paid under Section 38 of the Act 30 of 2013, the petitioners shall not be dispossessed by respondents.*

7. Alleging that the said order has been violated, the instant Contempt Case has been filed.

8. It is contended in the Contempt Case that respondents dispossessed the petitioners from the lands belonging to them forcibly after passing of the order in the Writ Petition and that they also destroyed the mango trees of the petitioners and leveled the land on 12-02-2019 without disbursing compensation or applicable Rehabilitation benefits in willful disobedience of the order passed by this Court on 01-08-2018 in the Writ Petition. It also contended that

petitioners were issued an endorsement by the Office of the Joint Collector and Administrator of Rehabilitation and Resettlements, Siddipet District on 11-01-2019 stating that they are not entitled for Rehabilitation and Resettlement.

9. Notice in this Contempt Case was issued to the respondents.

10. On 18-02-2019, learned Additional Advocate General took notice for respondents and sought time file a counter.

11. This Court again granted interim direction in I.A.No.1 of 2019 not to dispossess the petitioners from the lands belonging to them since no payments under Section 38 of the Act as directed in the interim order dt.01-08-2010 in I.A.No.1 of 2018 in W.P.No.26136 of 2018 were made to petitioners by respondents.

12. The matter was then adjourned to 26-02-2019 for filing of counter.

13. On that day, at request of learned Advocate Additional Advocate General, it was adjourned to 07-03-2019.

14. The matter was next listed on 13-03-2019 and again at the request of learned of the learned Additional Advocate General, it was adjourned for two weeks.

15. When the matter was again listed on 28-03-2019, this Court directed the respondents to file counter-affidavits by 05-04-2019

making it clear that if they do not do so, their right to file counter-affidavits will be forfeited since already 3 adjournments were given to file counter-affidavit, which were not availed off.

16. Within the time stipulated, only 3<sup>rd</sup> respondent filed counter-affidavit on 03-04-2019. Respondent Nos.1 and 2 did not do so. Though they filed counters on 20-04-2019, in view of the order dt.28-03-2019, these counter-affidavits are not considered since their right to file counter-affidavit stood forfeited.

17. The 4<sup>th</sup> respondent did not at all file a Counter though the Additional Advocate General took notice even for the said party on 18-2-2019.

18. In the counter-affidavit filed by 3<sup>rd</sup> respondent, it is contended that under Section 38 of the Act, it is for the competent authority to decide the entitlement of persons in regard to payment of compensation as well as Rehabilitation and Resettlement entitlements and that when an interim order is granted by this Court directing to pay Rehabilitation and Resettlement entitlements under Section 38 of the Act, the power vested with the concerned authorities to decide the same is taken away. It is also stated that there is no basis for the contention of petitioners that without paying Rehabilitation and Resettlement benefits they were dispossessed by respondents on 12-02-2019 by disobeying the orders passed by this Court. It is contended that an endorsement was given by 2<sup>nd</sup> respondent holding

that petitioners are not entitled for Rehabilitation and Resettlement benefits. It is also alleged that petitioners refused to receive compensation and so it was deposited with the authority constituted under Section 64 of the Act.

19. Sri B.Ramulu, learned counsel appearing for the learned Additional Advocate General reiterated the said contentions. He stated that in the counter-affidavits filed by respondent Nos.1 and 2 also the same stand as was taken by 3<sup>rd</sup> respondent was taken.

20. In the endorsements No.G1/2492/2018 dt.11-01-2019 issued by 2<sup>nd</sup> respondent to each of the petitioners, he stated that petitioners are residents of Pregnapur village of Gajwel Mandal and they are not residing at Tipparam village where their lands are acquired. It is alleged that petitioners have purchased the land but they were not cultivating on their own and had given on lease to villagers. It is also stated that the land which was acquired is not their own only source of livelihood and the petitioners have other land and their livelihood is not affected due to acquisition of land.

21. Reply affidavit was filed by petitioners contending that the statutory Rehabilitation and Resettlement is applicable to every single land loser along with compensation under the Act. It is further contended that even assuming that respondents are entitled to hold that petitioners are not entitled to Rehabilitation and Resettlement entitlements, they should have filed an application to vacate the

interim order and got the interim order modified and without doing so, they cannot unilaterally and arbitrarily and illegally forcibly dispossess the petitioners.

22. The order dt.01-08-2019 in I.A.No.1 of 2018 in W.P.No.26136 of 2018 is to the effect that *pending further orders, till Rehabilitation and Resettlement entitlements of petitioners are paid under Section 38 of Act 30 of 2013, petitioners shall not be dispossessed by respondents.*

23. If the respondents were of the opinion that petitioners are not entitled to Rehabilitation and Resettlement entitlements for whatever reasons, they should have filed an application for modification of the said order or for vacating the same, and only after the said order was modified or set aside, they can dispossess the petitioners from the said lands.

24. They cannot unilaterally decide for themselves the correctness of the interim order granted by this Court on 01-08-2018 in I.A.No.1 of 2018 in W.P.No.26136 of 2018 and proceed to dispossess the petitioners from the lands belonging to them. But this is exactly what they have done.

25. In my considered opinion, it is not for the respondents to decide for themselves whether the order passed by this Court is correct or not. They cannot arrogate to themselves the authority to sit in appeal

over this Court's order. Such attitude amounts to willful and deliberate contumacious conduct warranting punishment.

26. The Supreme Court in **Tayabbhai M. Bagasarwalla v. Hind Rubber Industries (P) Ltd**<sup>1</sup> approved the principle in the decision of the Court of Appeal in **Hadkinson v. Hadkinson**<sup>2</sup> that a party, who knows of an order, whether null or valid, regular or irregular, cannot be permitted to disobey it; and they cannot themselves judge whether an order was null or valid — whether it was regular or irregular. It held that they should come to the court and not take upon themselves to determine such a question. The following statement of law in the said decision was quoted by the Supreme Court:

*“In Hadkinson v. Hadkinson, the Court of Appeal held:*

*“It is the plain and unqualified obligation of every person against, or in respect of whom an order is made by a court of competent jurisdiction to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void. Lord Cottenham, L.C., said in Chuck v. Cremer<sup>12</sup> (at p. 342):*

*‘A party, who knows of an order, whether null or valid, regular or irregular, cannot be permitted to disobey it.... It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order was null or valid — whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question. That the course of a party knowing of an order, which was null or irregular, and who might be affected by it, was plain. He should apply to the court that it might be discharged. As long as it existed it must not be disobeyed.’*

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<sup>1</sup> (1997) 3 SCC 443

<sup>2</sup> 1952 2 All ER 567 (CA)

*Such being the nature of this obligation, two consequences will, in general follow from its breach. The first is that anyone who disobeys an order of the court (and I am not now considering disobedience of orders relating merely to matters of procedure) is in contempt and may be punished by committal or attachment or otherwise. The second is that no application to the court by such a person will be entertained until he has purged himself of his contempt.” (emphasis supplied)*

27. From the contents of the Counter affidavit filed by 3<sup>rd</sup> respondent, it is clear that without seeking vacation of the interim order, the petitioners were got evicted from their lands by respondent No.3.

28. Since the respondent no.4 did not file his counter affidavit, the allegation of petitioners that they were dispossessed in violation of the interim order has to be accepted.

29. So respondent Nos.3 and 4 are sentenced to Simple Imprisonment for a period of two (02) months with fine of Rs.2,000/- (Rupees Two Thousand only), which shall be paid within four (04) weeks from the date of receipt of copy of this order. Sentence of simple imprisonment imposed on respondent Nos.3 and 4 is suspended for a period of six (06) weeks. Petitioners are directed to deposit the subsistence allowance @ Rs.200/- (Rupees Two Hundred only) per day for respondent Nos.3 and 4 each within six (06) weeks from today.

30. The Contempt Case is allowed as above. No costs.

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

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 20-08-2019

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