

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Contempt Case No.290 of 2019

in

Writ Petition No.10990 of 2016

ORDER:

This Contempt Case is filed to punish the respondents for willful disobedience of the common order dt.25.01.2018 passed in WVMP.No.1215 of 2017 in WPMP.No.13855 of 2016 in WP.No.10990 of 2016 and WP.No.10990 of 2016.

2. The 1st petitioner's father had been assigned Acs.1.20 guntas by the Tahsildar, Vemulavada on 06.06.1980 in Survey No.63, situate at Sardarpur Village of Sircilla Mandal.

3. On 17.02.2014, thirty-four years later, the then Mandal Revenue Inspector – I issued a show-cause notice dt.12.03.2014 alleging that the 1st petitioner's father had not brought the land under cultivation within three (03) years from the date of assignment.

4. The 1st petitioner gave explanation to the show-cause notice denying the allegations and stating that his father had cultivated the land, but on account of drought they could not cultivate the land in 2014. He also stated that the Mandal Revenue Inspector – I and the Surveyor had colluded with the villagers and got the show-cause notice issued.

5. On 20.06.2014, the Tahsildar, Siricilla passed orders directing resumption of the land from the petitioners.

6. The 1st petitioner filed a Revision challenging the said order under Section 4-B of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 to the Joint Collector, Sircilla who confirmed the order dt.20.06.2014 passed by the Tahsildar on 15.12.2015.

7. This was assailed in the Writ Petition No.10990 of 2016.

8. This Court allowed the Writ Petition holding that there was no material before the Tahsildar other than the report dt.17.02.2014 of the Mandal Revenue Inspector – I, Sircilla that petitioners' father did not cultivate the land between 06.06.1980 and 1983; that the alleged inspection made by the Mandal Revenue Inspector – I was without notice to petitioners and even copy of the report of the Mandal Revenue Inspector – I was not furnished to the petitioners; that merely looking at the land in 2014, it is impossible for the Mandal Revenue Inspector – I to come to the conclusion that the said land was not cultivated between 06.06.1980 and 06.06.1983 since he had no divine powers to imagine what happened thirty-four years back to come to the said conclusion; that no reasons were contained in the order of the Tahsildar as to why the explanation of petitioner cannot be taken into consideration for dropping further proceedings; that, in fact, there was no alienation by the 1st petitioner's father to any third-party and the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 would have no application, and the Joint Collector had no jurisdiction under the said statute to confirm the

order passed by the Tahsildar on 15.12.2015, and there was non-application of mind by him.

The order dt.25.01.2018 passed in Writ Petition No.10990 of 2016 :

9. This Court in its order dt.25.01.2018 passed in Writ Petition No.10990 of 2016 set aside the order dt.20.06.2014 passed by the Tahsildar, Siricilla and the order dt.15.12.2015 of the Joint Collector, and directed restoration of possession of the land to 1st petitioner on payment of costs of Rs.3,000/- to 1st petitioner.

10. Thereafter, no appeal was filed against the order dt.25.01.2018 passed in Writ Petition No.10990 of 2016, and the said order has thus attained finality.

The present Contempt Case :

11. Alleging that the said order had not been complied with by the respondents and possession of the subject land had not been restored to the petitioners and there is intentional and willful disobedience of the order dt.25.01.2018 passed in Writ Petition No.10990 of 2016, the present Contempt Case had been filed.

12. The petitioners also claimed that after the Writ Petition was allowed on 25.01.2018, on 21.07.2018 the petitioners gave a representation enclosing copy of the order dt.25.01.2018 passed in Writ Petition No.10990 of 2016; that the Revenue Divisional Officer to whom copy was given stated that it is not possible to restore possession of the same land since it was allotted to D.I.E.T., College

during the pendency of the Writ Petition; and that the construction of the college building was also over, and the Institution was also running in that premises; and this stand of the respondents cannot be countenanced.

The stand of the respondents

13. In the counter-affidavit filed by the 3rd respondent, it is stated that the Tahsildar, Sircilla Mandal (3rd respondent) had addressed a letter to the Collector, Rajanna Sircilla District on 24.07.2018 with a request to give instructions for allotment of alternative land to the petitioners or pay *ex gratia* or file an appeal against the orders in the Writ Petition; that a notice was also issued to the petitioners on 09.08.2018 to appear on 16.08.2018 for conduct of survey and demarcation and for handing over the same; that petitioners attended on 16.08.2018, verified the land and came to know that on the subject land structures were already erected for establishment of Agriculture Polytechnic College and classes were going on, and the Government is using the subject land for public purpose; that petitioners stated that they are not interested to take over the possession as directed by this Court and requested for allotment of alternative land or payment of compensation, and left the premises.

14. According to 3rd respondent, on 28.08.2018, the petitioners gave a representation also to that effect.

15. It is contended that as there was a delay on the part of respondents, apprehending that the respondents may not allot alternative land or pay compensation, the present Contempt Case was filed on 25.01.2018. It is stated that petitioners were paid *ex gratia* under the Land Acquisition Rehabilitation (Telangana Amendment) Act, 2016 (Act No.21 of 2017) read with Central Act No.30 of 2013, amounting to Rs.11,25,000/-; that petitioners had also received the same apart from costs, and therefore, the Contempt Case be closed.

The consideration by the Court

16. I have noted the contentions of both sides.

17. It is important to note that at no point of time during the pendency of the Writ Petition, or in the counter-affidavit filed in the Writ Petition, there was any mention about the land having been given for the D.I.E.T. College / Agriculture Polytechnic College. It was merely stated that the land was resumed under cover of *Panchnama* on 25.06.2014, and it was under the custody of the Government.

18. Why this fact had been suppressed before this Court at the time when the Writ Petition was heard and decided, is not explained by the learned Government Pleader for Revenue, appearing for respondents.

19. It is not as if the respondents have questioned the judgment in the Writ Petition in Appeal and got the order set aside. Therefore, the order directing restoration of possession in the Writ Petition has attained finality.

20. Therefore non-delivery of possession of the subject land to the petitioners is a willful disobedience of the order passed by this court in W.P. No.10990 of 2016.

21. Assuming that the land is not available for restoration to petitioners, the petitioners' father was assignee of the subject land, and was entitled to be paid market value compensation as on the date of resumption as per the provisions of Act 30 / 2013 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (also Land Acquisition Act, 2013) as held in the decision of the larger Bench of this Court in **Land Acquisition Officer-cum-Revenue Divisional Officer vs. Mekala Pandu and others¹**.

22. The Bench held as follows :

“99. The deprivation of the assignee's right to payment of just compensation equivalent to the market value of the assigned land may amount to deprivation of right to livelihood. The denial of constitutional claim to receive just compensation after depriving the assignee of his land is impermissible except pursuant to a constitutionally valid rule or law.

....

108. In the result, we hold that 'no compensation' clause, restricting the right of the assignees to claim full compensation in respect of the land resumed equivalent to the market value of the land, is unconstitutional. The 'no compensation clause' infringes the fundamental rights guaranteed by Articles 14 and 31-A of the Constitution. We are conscious that Article 21 essentially deals with personal liberty. But in cases where deprivation of property would lead to deprivation of life or liberty or livelihood, Article 21 springs into action and any such deprivation without just payment of compensation amounts to infringement of the right guaranteed thereunder. The doctrine of 'unconstitutional conditions' applies in all its force.

¹ 2004 (2) A.L.D. 451

109. In the circumstances, we hold that the assignees of the Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.”

23. It is not open to respondents to pay on *ad hoc* basis the sum of Rs.11,25,000/- as *ex gratia* without paying compensation to them on market value calculated after following the procedure under Act 30 of 2013.

24. In the documents filed by respondents it is shown as if the respondents had taken the basic value as per the Sub-Registrar's records at Rs.2 lakh per acre, and on that basis calculated the market value and added 100 per cent solatium. But, this is not correct procedure to determine the market value as on the date of their dispossession as per Act 30 of 2013.

25. Therefore, the payment of *ex gratia* by respondents to petitioners does not absolve respondents of charge of contempt of Court.

26. Since the entitlement of petitioners to market value compensation for deprivation of assigned land has been held by the larger Bench in **Mekala Pandu** (1 supra) to be a fundamental right and its deprivation is a violation of Article 21, any statement obtained

by the respondents from the petitioners cannot operate as *estoppel* against the petitioners, and in any event, does not bind this Court since the Contempt case is between the court and respondents.

27. Having deprived the petitioners of the land in 2014, the respondents cannot wash their hands off by making a paltry payment in March, 2019, almost five years later, without giving the petitioners interest which they are entitled to under the Act 30 of 2013, apart from market value determined under the said Act.

28. Accordingly, the Contempt Case is allowed.

29. The respondent nos.1 and 3 are directed to calculate the market value of the subject land as per Act 30 of 2013 as on the date of resumption by the respondents i.e., 20.6.2014 by keeping in mind the parameters for calculation of market value as specified in the said Act, and arrive at the compensation payable to petitioners within 3 months. After arriving at the figure of compensation, the same shall be paid to the petitioners by deducting the amounts already paid to them, within 2 weeks thereafter. Personal hearing through counsel shall also be permitted by the respondents during the enquiry for determination of compensation.

30. If this exercise is not done within the period aforesaid, the respondent nos.1 and 3 shall suffer simple imprisonment for a period of one (01) month apart from fine of Rs.2,000/-.

31. Accordingly, the Contempt Case is allowed with costs of Rs.20,000/- to be paid by respondents 1 and 3 to the petitioners.

M.S.RAMACHANDRA RAO, J

Date: 24-01-2020
Ndr

