

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY**

SUO MOTU CONTEMPT APPEAL No. 14 of 2020

Judgment: *(per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

The appellant, Mr. A. Narsimha Reddy, the Revenue Divisional Officer, Kandukur Division, Ranga Reddy, has challenged the legality of the order dated 24.01.2020 passed by a learned Single Judge in *suo motu* Contempt Case No. 1634 of 2018, whereby the learned Single Judge has imposed a fine of Rs.2,000/- to be paid within a period of four weeks, and further directed the appellant to undergo a simple imprisonment for six weeks in default thereof.

This case has a rather chequered history, which is as under:-

A group of persons (hereinafter to be referred to as 'the petitioners') were assigned small extents of land in the years 1993-1995, situated in Sy.No. 18, Raviryala Village, Maheshwaram Mandal, Ranga Reddy District. After assigning the lands to the petitioners, pattadar passbooks, and title deeds were also issued in their favour. The total land in Sy.No. 18 was about Ac.65.35 guntas. Subsequently, the government acquired Ac.23.17 guntas for the purpose of construction of the ring road. Consequently, the government paid compensation to the petitioners. The remaining extent of Ac.42.18 guntas of land was in possession of twenty-one petitioners i.e. approximately, Ac. 2.00 guntas per petitioner. The

petitioners continued to enjoy the peaceful possession of the land till November, 2008.

In November, 2008, the Tahsildar/Mandal Revenue Officer, Maheshwaram Mandal not only visited the lands owned by the petitioners, but also destroyed the crops standing in the land without following the procedure established by law. Therefore, the petitioners filed a writ petition before this Court, namely Writ Petition No. 27233 of 2008 challenging the destruction of their crops, that too, in violation of law. During the pendency of the writ petition, the Assistant Government Pleader for Revenue Department claimed that the land was, in fact, resumed by the government by order dated 18.03.2006 under Section 4 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. According to the Assistant Government Pleader, the land was resumed as the petitioners had failed to raise any crop within the period of two years from the date of assignment of the land. However, this fact was strenuously countered by the petitioners. Considering the fact that disputed questions of facts were involved, the said writ petition was disposed of by a learned Single Judge of this Court, by order dated 24.01.2020, with a direction to both the parties to raise their disputes before the Joint Collector, Ranga Reddy District by filing an appropriate appeal.

Consequently, on 06.01.2009, the petitioners filed an appeal before the Joint Collector. During the pendency of the appeal, the Tahsildar (hereinafter referred to as 'respondent

No. 4) again issued a show-cause notice to the petitioners on 05.09.2009 claiming that their land shall be resumed on payment of *ex-gratia* as per the guidelines issued in G.O.Ms. No. 1307, dated 23.12.1993. Immediately, on 15.09.2009, the petitioners replied to the show-cause notice, and prayed that the authority should fix the market value of the land at the rate of Rs.72.00 lakhs per acre, including 30% solatium in accordance with G.O.Ms. No. 1307, dated 23.12.1993. Subsequently, the petitioners revised the market value of their land at the rate of Rs.27.50 lakhs per acre.

Despite the reply submitted by the petitioners, the respondent No. 4 tried to take over the possession of the land belonging to the petitioners. Hence, the petitioners filed the second writ petition, namely Writ Petition No. 22658 of 2009 before this Court. By order dated 23.10.2009, a learned Single Judge of this Court disposed of the writ petition while directing the respondent No. 4 to consider the pleadings of the petitioners in response to the show-cause notice issued by him, and to place the case before the Revenue Divisional Officer, East Division (to be referred to as 'respondent No. 3'). The respondent No. 3, in turn, was directed to decide the case within a period of four weeks from the date the case was placed before him.

Meanwhile, by order dated 24.10.2009, the Joint Collector-I, Ranga Reddy District fixed the *ex-gratia* of the petitioners' land at the rate of Rs.6.00 lakhs per acre. Since the

petitioners were aggrieved by the *ex-gratia* amount, they filed a third writ petition, namely Writ Petition No.14271 of 2010, wherein they questioned the quantum of *ex-gratia* offered by the government.

By order dated 24.11.2009, this Court directed that the *ex-gratia* amount should be equivalent to the market value. This Court further directed the respondent No. 3 to determine the *ex-gratia* amount in accordance with the G.O.Ms. No. 1307, dated 23.12.1993 within a period of three months.

However, as the direction issued by this Court by the abovementioned order was not followed by the respondents, the petitioners filed a contempt petition before this Court, namely C.C. No. 1481 of 2011. During the pendency of the contempt petition, on 07.12.2011, the respondent No. 4 issued a notice to the petitioners inviting them to attend the enquiry on 15.12.2011 with regard to determining the *ex-gratia* amount. Again, the petitioners reiterated that their *ex-gratia* amount should be fixed at Rs.27.50 lakhs per acre along with 30% solatium. However, by order dated 12.04.2012, the respondent No. 4 fixed the *ex-gratia* amount as merely Rs.15.00 lakhs per acre.

Since the petitioners were aggrieved by the fixation of the *ex-gratia* amount as merely Rs.15.00 lakhs, they challenged the order dated 12.04.2012 by filing a fourth writ petition before this Court, namely Writ Petition No. 28096 of 2012. The petitioners pleaded that considering the sale transactions of

their adjacent lands for the preceding three years, *ex-gratia* amount of Rs.15.00 lakhs was too little; the same needs to be enhanced to at least Rs.26.50 lakhs per acre, apart from 30% solatium. By order dated 23.12.2015, the Court agreed with the contentions raised by the petitioners, and held that the compensation of Rs.15.00 lakhs per acre needed to be enhanced to Rs.26.50 lakhs per acre along with 30% solatium.

Since the respondent No. 3 was aggrieved by the order dated 23.12.2015, he filed two writ appeals, namely Writ Appeal No. 1353 of 2016, and 959 of 2016 before a learned Division Bench of this Court. The learned Division Bench disposed of the writ appeal by common judgment dated 15.12.2016 directing the respondent No.3, the appellant herein, to re-determine the compensation payable to the petitioners on the basis of the market value of the land as on 05.09.2009.

Consequently, by order dated 06.04.2017, the respondent No. 4 re-determined the market value of the land in question at the rate of Rs.15.45 lakhs per acre.

Since the petitioners were again dissatisfied with the *ex-gratia* amount being fixed by the respondent No.3, the appellant herein, government with regard to the land owned by them, the petitioners filed a fifth writ petition, namely W.P. No. 40989 of 2017. After hearing both the sides, a learned Single Judge of this Court, by order dated 19.06.2018, set aside the order dated 06.04.2017, and directed the respondent No. 3 to pay *ex-gratia* at the rate of Rs.30.25 lakhs per acre (adding 10%

escalation to the transaction that occurred one year prior to 05.09.2009) along with 30% solatium and interest at the rate of 8% per annum. It was further directed that the amount already paid shall be deducted, and the remaining amount shall be paid to the petitioners. The learned Single Judge further imposed a costs of Rs.20,000/- upon the respondent No.1, the Special Chief Secretary to the Government, Revenue Department, and also directed that a disciplinary action should be taken against the appellant herein for the willful disobedience of the directions issued by this Court in Writ Appeal Nos. 1353 of 2016, and 959 of 2016. That apart, the learned Single Judge also issued a *suo motu* contempt notice to the appellant for the willful disobedience of the judgment dated 15.12.2016 passed in the above writ appeals.

Since the official respondents were aggrieved by the order passed by the learned Single Judge, they filed two appeals, namely Writ Appeal Nos. 1013 of 2018, and 1149 of 2018 before a learned Division Bench of this Court. By judgment dated 05.11.2018, the learned Division Bench, partly allowed the appeals holding that the learned Single Judge was not justified in determining the compensation at Rs.30.25 lakhs, and in fact, the compensation should be fixed at Rs.27.00 lakhs per acre, along with 30% solatium, and interest at the rate of 8% per annum on the difference between the amount which they were already paid, and the amount now directed to be paid by the said order, till such payment is made from the date of

resumption. The said amount was to be paid within eight (08) weeks from the date of the order. Furthermore, the learned Division Bench set aside the direction of the learned Single Judge with regard to the initiation of the disciplinary proceedings against the appellant herein. However, the learned Division Bench did not set aside the *suo motu* issuance of contempt notice to the appellant by order dated 19.06.2018. Therefore, the contempt proceedings continued.

Before the learned contempt Court, the alleged contemnor, the appellant herein, pleaded that the costs of Rs.20,000/-, as directed by the learned Single Judge, by order dated 19.06.2018 had been duly paid to the petitioners. Moreover, the appellant submitted an unconditional apology. But notwithstanding these two facts, by the impugned order dated 24.01.2020, the learned contempt Court has imposed a fine of Rs.2,000/- upon the appellant, and further directed him to undergo a simple imprisonment of six weeks in default thereof. Therefore, the present appeal before this Court.

Mr. Sharath Kumar, the learned Special Government Pleader has raised the following contentions before this Court:-

Firstly, the power to punish for contempt of court is a penal power. It is a vast power having far-reaching consequences. Therefore, the more vast a power, the more sparingly it should be used by the Court. Moreover, while exercising the said power, the Court should be aware of the far-reaching consequences it would have. Therefore, the power

should be invoked in the rarest of the rare case, and only as a last resort.

Secondly, the learned Single Judge has over-looked the fact that by judgment dated 15.12.2016, the learned Division Bench had directed that *“the Revenue Divisional Officer, East Division, Ranga Reddy District, or any other competent authority, to re-determine the compensation payable to the petitioners on the basis of the market value of subject lands as on 05.09.2009”*.

Therefore, the learned Division Bench had left the re-determination of the compensation amount to the discretion of the appellant. Even if the appellant has failed to exercise a proper discretion, even then, his conduct cannot be said to be a willful and intentional disobedience of the judgment dated 15.12.2016. At worst, the exercise of his discretion may be wrong, and even may be an illegal one. But merely because the exercise of discretion is an illegal one, it does not become “contemptuous” in its nature.

Thirdly, while passing the impugned order dated 24.01.2020, the learned Single Judge has ignored the fact that by the said time, the learned Division Bench had already passed its order on 05.11.2018 in Writ Appeal Nos. 1013 of 2018, and 1149 of 2018, whereby the learned Division Bench had already determined the compensation amount payable to the petitioners at the rate of Rs.27.00 lakhs with 30% solatium, and interest at the rate of 8% per annum on the difference amount, which they were already paid, and the amount then directed to be paid.

The said interest had to be paid from the date of resumption till the date the amount is paid. The judgment dated 15.11.2018 has not been challenged either by the petitioners, or by the State. Therefore, the said judgment has achieved finality. Hence, much had transpired for the learned Single Judge to impose a fine upon the appellant. For, by the time the impugned order was passed by the learned Contempt Court, the order dated 06.04.2017 had already merged with the order passed by the learned Division Bench. Hence, the imposition of a fine upon the appellant is legally unjustified.

Lastly, since the learned Division Bench had already concluded the legal issue with regard to the amount of compensation to be paid to the petitioners, the learned Single Judge should have dropped the contempt proceedings instead of punishing the appellant.

Heard the learned counsel for the appellant and perused the material available on record.

Undoubtedly, the power to punish a person for contempt of the court is a vast power. In catena of cases, the Hon'ble Supreme Court has opined that the more vast a power is, the more sparingly it should be used by the courts. A vast power should not be invoked lightly by the Court. After all, the use of a vast power has far-reaching consequences, both on the party against whom the power is invoked, and on the reputation of the institution, which invokes the said power. While invoking the power of punishing a person, not just the liberty of the

person is adversely affected, but more so, his economic condition, and financial conditions of his family may be jeopardized. It is, indeed, trite to state that if a bureaucrat is imposed just with a fine, or is directed to be imprisoned under the Contempt of Court Act, it will not only destroy his Service Record, but would also damage the financial foundation of his family. Moreover, if the power is invoked recklessly by the Court, it will shake the faith of the people in the administration of justice, and in the impartiality of the judges. The frequent use of a vast power would create an impression that judges are no longer reasonable, but have become autocratic in their conduct. Hence, before invoking the power of contempt, the Court has to rationally and judicially weigh the pros and cons of the case, and of the consequences, considering the peculiar facts and circumstances of each case.

Coming to the facts of the case, the operative portion of the order dated 15.12.2016 is as under:-

We, however, find considerable force in the submission of the learned Advocate General that, in exercise of its powers of judicial review under Article 226 of the Constitution of India, this Court would not take upon itself the task of determining the market value of assigned lands, resumed by the Government, as these are matters which the Revenue Divisional Officer is required to determine. To the extent the learned Single Judge undertook the exercise of determining the compensation to be paid to the petitioners, the order under appeal must be, and is accordingly, set aside. The Revenue Divisional Officer, East Division, Rangareddy District, or any other competent authority, shall at the earliest, and in any event not later than three months from the date of receipt of a copy of this order, re-determine the compensation payable to the petitioners on the basis of the market value of the subject lands as on

5.9.2009. It is open to the respondents-writ petitioners to submit their representations bringing sale transactions, if any, which the Revenue Divisional Officer failed to notice while passing the impugned order dated 17.2.2012, to his notice within four weeks from today. If any such representation is submitted, they shall be considered before a fresh order is passed determining the market value of the lands, and the compensation payable to the petitioners, as on 5.9.2009.

Therefore, the learned Division Bench had merely directed the appellant to re-determine the compensation payable to the petitioners on the basis of the market value of the subject land as on 05.09.2009.

In the order dated 19.06.2018, the learned Single Judge does note the fact that while re-determining the compensation amount, the appellant had considered many transactions ranging from 2007 to 2009. Moreover, although an agreement of sale dated 29.06.2011 was placed before the appellant, he did not rely on the said agreement of sale in order to determine the compensation payable to the petitioners. According to the learned Single Judge, the appellant did not give any reasons for discarding certain agreements of sale which were beyond 2009. Therefore, the learned Single Judge was of the opinion that it is “shocking” that appellant has arrived at a low rate of Rs.15.45 lakhs per acre. Therefore, the learned Single Judge took a *suo motu* cognizance of contempt, and issued a contempt notice to the appellant.

Since the direction of the learned Division Bench by order dated 15.12.2016 was merely to re-determine the compensation *vis-à-vis* the market value of the land as on 05.09.2009, the

appellant was justified in discarding the agreement of sale entered after 2009. Moreover, even if his assessment was an incorrect one, it cannot be said to be “contemptuous” in its nature. For, it is a settled principle of law that a mere wrong assessment of evidence may be unjustified, may even be illegal, but, such an assessment does not tantamount to a contempt. Therefore, the learned Single Judge is unjustified in *suo motu* issuing a contempt notice to the appellant.

Moreover, by the time, the impugned order dated 24.01.2020 was passed, much water had flown under the bridge. For, by that time, the order dated 19.06.2018 passed by the learned Single Judge was already under challenge before a learned Division Bench in Writ Appeal Nos. 1013 of 2018, and 1149 of 2018. Furthermore, the said writ appeals had already been decided by the learned Division Bench by its common judgment dated 05.11.2018. Hence, the order dated 06.04.2017, and the order dated 19.06.2018 had already merged in the judgment dated 05.11.2018. The learned Contempt Court has over-looked the *doctrine of merger*, and has proceeded to exercise its power under the Contempt of Court Act. Once the order dated 06.04.2017, and the order dated 19.06.2018 had already merged with the common judgment dated 05.11.2018, the question of proceeding further with the contempt proceedings would not even arise. Therefore, this Court is of the opinion that instead of continuing with the contempt proceedings, the said proceedings, in fact, should

have been dropped against the appellant. Therefore, the imposition of a fine of Rs.2,000/- upon the appellant is legally unjustified.

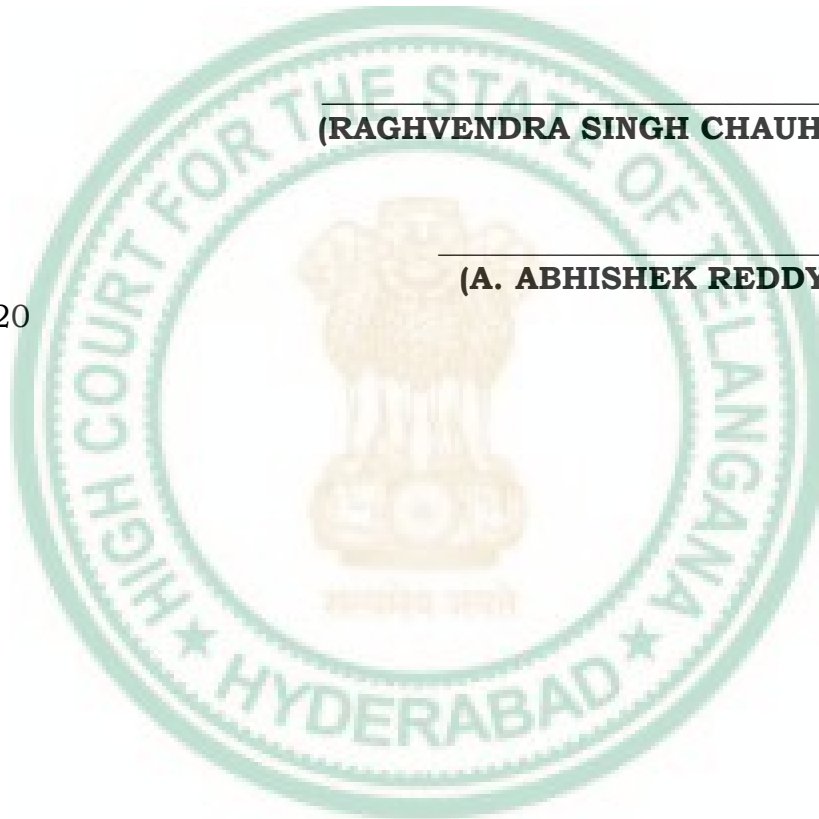
For the reasons stated above, this appeal is, hereby, allowed; the impugned order dated 24.01.2020 in C.C. No. 1634 of 2018 is set aside. No order as to costs.

As a sequel, Miscellaneous Petitions, pending if any, shall also stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A. ABHISHEK REDDY, J)

24.02.2020
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CONTEMPT APPEAL No.14 of 2020

((per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan))

24.02.2020