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Cont.P.No.407 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : **15-07-2021**

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

Cont.P.No.407 of 2013

Kaliyamurthy,
Vaniyampalayam,
V.Agaram Village,
Villupuram District

.... Petitioner

-VS-

Mr.Sampath
District Collector
Villupuram District,
Villupuram.

.... Respondent

Contempt Petition filed under Section 11 r/w 2b of Contempt of Courts Act, 1971, for violating the directions issued by this Court in W.P.No.1274 of 2011, dated 16.12.2011.

For Petitioner : Mrs.Dakshayani Reddy

For Respondent : Mr.Richardson Wilson
Counsel for Government

ORDER

This contempt petition infact had been filed for the alleged disobedience of the orders of this Court made in W.P.No.1274 of 2011, by order dated 16.12.2011.



2. In the said order, the learned Judge of this Court has given the following direction :

"10. In the result, the writ petition is allowed and the petitioner is directed to make a detailed claim before the second respondent requesting for a just compensation to be paid, as Rs.6/- per sq.ft. fixed and paid is very low. On such representation being made the second respondent Collector shall conduct an enquiry, to through the documents hear the petitioner and fix and pay just compensation, taking into consideration the market rate prevailed then and the above observation made by this Court. The petitioner shall make a representation as referred above, within a period of 15 days from the date of receipt of a copy of this order and the same shall be considered by the second respondent and order be passed on merits as stated above within a period of three months thereafter.

11. In the result, the writ petition is allowed in the above terms. No costs."

3. Pursuant to the said order, it seems that, the petitioner had given representation to the respondent for consideration of grant of compensation, solatium as well as interest for the belated payment of compensation.



4. Though such a representation had been given, it seems that, the respondent had not considered the same immediately and they have not passed any orders by issuing a Government Order for grant of compensation, interest and solatium, as directed by this Court, therefore, the petitioner moved this Contempt Petition in the year 2013.

5. This Contempt Petition, infact came up before the learned Judge who passed order in the writ petition and finally when this Contempt Petition taken up for hearing by the learned Judge on 26.02.2014, the learned counsel for the Government appearing for the respondent seems to have informed to the learned Judge that, the District Collector concerned had already given recommendation to the Government to pass an order for the compensation at the rate of Rs.10/- per sq.ft. together with 30% solatium with interest at 6% p.a., from 09.03.2007 to 17.02.2014.

6. Taking into account of the said development that, the recommendation having been made by the District Collector to the Government to issue a Government Order and after hearing the petitioner side also, the learned Judge, in the said order, dated 26.02.2014 passed the following order :

"3. Considering the representation made by the learned counsel appearing for the petitioner and



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taking note of the fact that a recommendation has been sent by the District Collector to the Secretary and the Director, Adi Dravidar Welfare Department by letter, dated Nil (signed on 20.02.2014) for payment of due compensation at the rate of Rs.10/- per sq.ft., 6% interest together with 30% solatium, I direct the Secretary, Adi Dravidar Welfare Department to arrange for passing necessary Government Order, on the lines of the letter / recommendation sent by the District Collector, within a period of three months 'from today' as the petitioner is 70 years of age and has been waiting for this due compensation for the lands taken over by the Department without following the due process of law and acquisition proceedings. If the Government Order is not passed in compliance with the direction issued by this Court today, the petitioner is entitled to reopen this contempt petition against the District Collector and the Secretary, Adi Dravidar Welfare Department of Tamil Nadu Government.

4. In the result, the contempt petition is closed in the above terms. No costs."

7. So by the said order, dated 26.02.2014, infact the Contempt

Petition was closed.



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8. However, according to the petitioner, though Government Order was issued, compensation with solatium and interest had been paid, the said payment is not in tune with the said order passed by this Court in the writ petition, which has been explained or amplified by the learned Judge in the contempt order, dated 12.06.2014. In other words, it is the further case of the petitioner that, the orders passed by the writ court by the learned Judge has not been fully complied with by the respondent. Therefore by taking the liberty given by the learned Judge, while passing the order on 26.02.2014 in this contempt petition that, the petitioner is entitled to reopen the contempt petition against the District Collector and the Director, Adi Dravidar Welfare Department, if the Government Order is not passed with the direction issued by the Court, the petitioner has attempted to revive this contempt petition. That is how this contempt petition again is taken up.

9. It came up before another learned Judge on 26.02.2021, where the learned Judge has passed the following order :

"Learned Additional Government Pleader appearing on behalf of the respondent admitted that the respondent had taken possession of the land without acquiring the land in the manner known to law. Though the question that arises



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before this Court is regarding payment of interest for the compensation that was determined pursuant to the direction of this Court, this Court is of the view that the respondent not only failed to comply with the direction of this Court but also lost the wonderful opportunity of acquiring the land for a meagre amount that was awarded as compensation to the petitioner.

2. Considering the facts of this case, this Court is of the view that the respondent has to acquire the land afresh by issuing a fresh notification and determine and pay compensation in accordance with the provisions by which the land belonged to the petitioner is going to be acquired. Learned Additional Government Pleader however submitted that one chance may be given to the respondent to pay the money.

3. This Court is of the view that one last chance may be given to the respondent to pay the money. Accordingly, the respondent is directed to pay the money which is agreeable by the petitioner, by the next hearing date, otherwise, this Court has no other option but to take action against the respondent for non-compliance and to set right the things so that the rights of an individual owner will



be protected, as it is required under Article 300 A of Constitution of India.

4. The respondent shall appear before this Court on 09.03.2021 and report compliance of the directions of this Court. Learned Additional Government Pleader is directed to serve a copy of this order so that the respondent shall appear on 09.03.2021.

List the case on 09.03.2021."

10. Thereafter this contempt petition has been listed one or two times and ultimately it has come before this Court.

11. When this matter is taken up for hearing on 08.07.2021, it was the grievance espoused by the learned counsel appearing for the petitioner on behalf of the petitioner that, the payment of compensation of Rs.5,00,000/- alone was paid, that too belatedly after 20 or 30 years and therefore for such belated payment, the petitioner shall be entitled to get interest at the rate of 15% p.a., along with solatium.

12. Taking into account of the said submission made by the learned counsel appearing for the petitioner, this Court by order, dated 08.07.2021 passed the following order :

<https://hcservices.ecourts.gov.in/hcservices/> "Mr. Richardson Wilson, learned counsel for the



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Government takes notice for the respondent. It is the claim of the petitioner that, since belatedly, compensation was fixed and paid only in the year 2006, that too after the orders passed by this Court, though the land had been acquired in the year 1980, between the period, i.e., 1980 to 2006, the petitioner is entitled for the interest at the rate of 15% per annum, which has not been calculated and paid. That apart, the petitioner is also entitled for solatium, that was also not paid. Therefore, since the said payment of compensation of Rs.5,00,000/- (Rupees Five Lakhs Only) is alone paid and that too belatedly after 26 years or 30 years which may not be construed as a full compliance of the orders of this Court. Hence, the learned counsel seeks to pursue the Contempt Petition before this Court.

2. However, the learned counsel for the Government appearing for the respondent would submit that, now the only grievance of the petitioner is that, between 1980 and 2006, interest should be calculated and paid apart from solatium, if the petitioner is entitled to. Therefore, on these two aspects, the learned counsel for the Government wants to get instructions and submit before this Court. Hence, he seeks a week's accommodation.



3.Post the matter on 15.07.2021."

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13. That is how this contempt petition has come up before and it is again taken up for hearing.

14. Today, Mr.Richardson Wilson, learned counsel appearing for the respondent, on instruction, would submit that, as per the order passed by the writ court in W.P.No.1274 of 2011, which has been clarified by the further order passed by the very same learned Judge in this contempt petition, by order, dated 26.02.2014, direction was given to the Government to issue Government Order for the payment of compensation at the rate of Rs.10/- per sq.ft together with solatium at 30% and also interest at the rate of 6% from 2007 to 2014.

15. Accordingly, the amount having been calculated as has been directed by this Court and the same had been paid to the extent of Rs.5,74,688/-. Relying upon the said payment, the learned Counsel for the Government would submit that, the said amount of Rs.5,74,688/- paid to the petitioner is based on the calculation made with regard to the compensation at the rate of Rs.10/- per sq.ft., with 30% solatium and 6% interest. This is what exactly ordered by the learned Judge as has been clarified in the order, dated 26.02.2014. According to the learned counsel for the Government, the respondent has fully complied with the order and therefore, the question of



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reviving this contempt petition once again as has been proposed by the petitioner side does not arise. Therefore, recording the aforesaid, this contempt petition can be closed, he contended.

16. However, Mrs.Dakshayani Reddy, learned counsel appearing for the petitioner would submit that, the petitioner is a senior citizen and his land was infact acquired without the due process of law and after having acquired the land long years back, the respondents have not come forward to pay compensation and when the writ petition had been filed in the year 2007, the learned Judge has given a direction on 16.12.2011 to permit the petitioner to give a detailed representation and considering the same, the respondents were directed to fix the market rate prevailed then for compensation along with interest and solatium.

17. Accordingly, a representation was given, however the same was not immediately considered. Therefore it triggered the petitioner to file the contempt petition. Even before this Court in the contempt proceedings, the respondent took a stand that, they will comply with that order and again when the contempt petition came up for hearing on 26.02.2014, they submitted that, the Collector had given the recommendation to the Government to issue Government Order. Recording the said development, the learned Judge closed the contempt petition, however, giving liberty to



the petitioner to revive the contempt if any Government Order as indicated in the said order of the Court has not been passed and no follow up action had been taken up in this regard.

18. Though in this regard, a sum of Rs.5,74,688/- having been calculated was paid to the petitioner, that is not meeting the actual calculation because more than 25 to 30 years, the petitioner had been waiting to get this amount, therefore certainly he would be entitled to get the interest.

19. In this context, it is the further claim of the petitioner that, if within one year period if they have not paid the compensation, the petitioner would be entitled to get higher interest at the rate of 15% since it is a statutory fixation which cannot be given up or expected to be given up by the petitioner by way of acquiescence or waiver as the theory of acquiescence or waiver cannot be invoked against the statutory right on the citizen. Therefore the petitioner, according to the learned counsel for the petitioner would be entitled to get 15% interest since admittedly the said 15% interest having not been calculated and paid to the petitioner and only 6% interest that too up to the year 2014 alone was calculated, the petitioner would be entitled to get higher interest of remaining 9% as well as the period till the payment of the said amount of Rs.5,74,688/-. The said amount



unless and until calculated and paid to the petitioner, the petitioner can very well pursue this contempt petition. Therefore the respondent cannot escape from the clutches of law as they have not fully complied with the orders of this Court, therefore further persuasive action can be taken in this contempt petition, she contended.

20. I have considered the said rival submissions made by the learned counsel appearing for the parties.

21. In the order passed by the learned Judge, in the W.P.No.1274 of 2011, dated 16.12.2011, a direction was given to consider the representation to be submitted by the petitioner for fixing the compensation as per the then market rate prevailed and the relevant portion of the said order has already been quoted herein above.

22. Pursuant to which, since orders were not passed, contempt petition was filed and in the contempt petition, while passing the order for closing the contempt petition, the very same learned Judge who passed the order in the writ petition, by order, dated 22.06.2014 has given the said direction at para 3 of the order which has also been quoted herein above.

23. The learned Judge has given a clear cut direction in the contempt petition itself that, the Secretary, Adi Dravidar Welfare Department would arrange for passing necessary Government order on the lines of the District



Collector within a period of three months. On the line of the letter communication of the District Collector means, the District Collector already made recommendation to the Government to issue a Government Order for paying the compensation at Rs.10/- per sq.ft with 6% interest and 30% solatium. Therefore what has been directed by the learned Judge which has been accepted by the petitioner also not only in the writ petition but also in the contempt petition that, the petitioner would receive the payment of compensation at the rate of Rs.10/- per sq.ft with 6% interest together with 30% solatium. Therefore in respect of this calculation, the petitioner cannot now take a stand that, the petitioner would be entitled to get the higher compensation, higher interest or higher solatium.

24. However, the petitioner would be entitled to get 6% interest till the date of payment. Though it has not been specifically mentioned in the order, it is in the normal parlance, once the interest is calculated, that interest would be calculated only till the date of payment.

25. In this regard, if at all the interest is calculated from 09.03.2007 to 17.02.2014 or any other earlier date, that is prior to the payment of the sum of Rs.5,74,688/-, certainly for the remaining period, i.e., till the date of payment, the petitioner would be entitled to get 6% interest.

26. The said interest for the remaining period, for which the petitioner



is very much entitled to. Therefore this Court feels that, while closing this contempt petition a direction can be given to the respondent to calculate 6% interest for the compensation and solatium payable to the petitioner from the date when the calculation of interest been made already till the date of payment and such amount after being calculated shall be paid to the petitioner within a period of three months from the date of receipt of a copy of this order.

27. With this direction, this Court feel that this Contempt Petition can be closed as no further persuasive action is required. Accordingly, this Contempt Petition is closed.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

tsvn

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

GS/12/08/2021

To

The District Collector
Villupuram District, Villupuram.