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SS
Ct.
759

04.08.2023.

C.P.A.N 1044 of 2018
In
WPA 19603 of 2015

Smt. Rama Rani Paul
Vs.
P. Mohangandhi

Mr. Sudeep Sanyal
Mr. Snehasis Jana
Mr. Dibashis Basu

...For the applicant.

Mr. Soumitra Bandyopadhyay
Mr. Aniruddha Sen

...For the contemnor.

1. The applicant is seeking contempt proceedings against the alleged contemnor for violation of order dated December 13, 2017, passed by the Learned Single Judge in W.P. No. 19603(W) of 2015 (Smt Rama Rani Paul -versus-P. Mohangandhi).
2. The applicant in the present case is one Smt Rama Rani Paul. The alleged contemnor is the Land Acquisition Collector, Paschim Medinipur. The plots in question are RS Plot Nos. 207,208,207/439,209 and 210 measuring about 0.036 acre, 0.09 acre,0.058 acre,0.02 acre and 0.02 acre respectively of Mouza Krishnagar, P.S Ghatal appertaining to J.L no. 146 acquired under the Defence of India Rules and later The West Bengal Requisitioned Land (Continuation of

Powers) Act 1951.

3. Before considering the submissions made by learned counsel appearing on behalf of the respective parties, the facts of the case in a nutshell are that the applicant moved a writ petition bearing WP No. 19603(W) of 2015, which was disposed of by the Learned Single Judge vide order dated December 13, 2017 with the following instruction: -

“... the writ petition stands disposed of with direction upon the Land Acquisition Collector, Paschim Medinipur to assess the compensation in respect of those three plots, if the same was not done before and to dispose of the proceeding of the award upon hearing the Writ petitioner and other interested parties, if any, preferably within a period of six months and not exceeding nine months from the date of communication of this order.”

4. In pursuance to the order dated December 13, 2017, a hearing was given to the applicant in a proceeding drawn up by the alleged contemnor on 05.02.2019 regarding compensation amount for plot nos. 207,208 and 207/439 of Mouza Krishnagar, P.S Ghatal appertaining to J.L no.

146, assessed in her favour in L.A Case No. 5 of 2011-2012 under The Land Acquisition Act, 1894. Instead of agreeing to receive compensation, the applicant filed an application for purchase of the aforesaid land by the Government in terms of Government memo No.756-LP/1A-03/14 (Pt-II).

5. The order dated 05.02.2019 passed by the alleged contemnor entailed that :-

“...Assessment of compensation in respect of plot of land in question involved in respective L.A cases has already been made as per relevant provisions of the respective act being in force at that time and hence the undersigned being the Land Acquisition Collector do not find any reason for further assessment of compensation. However, the assessed amount in L.A case No.5/11-12 (Act-1 of 1894) which has been pending and has not been received by the writ petitioner in spite of repeated notices upon her is to be delivered immediately.”

6. Subsequently, the contempt application being CPAN No. 1044 of 2018 was filed alleging intentional and wilful violation of the said order dated 13.12.2017 as compensation was awarded

only in respect of R.S plot Nos. 207,208 and 209 measuring 0.020-acre, 0.035 acre and 0.022 acre respectively vide order dated 25.01.2019 passed by the alleged contemnor.

7. The Learned Counsel for the applicant submits that the contemnor acted in wilful, deliberate and contumacious violation of the order dated 13.12.2017 by not taking appropriate steps to assess the compensation in respect of Plot Nos. 207, 208 and 207/439. The applicant categorically mentioned the deed numbers by which purchase of the plots were made and the examination of the deeds at her request was refused by the contemnor.

8. The Learned Counsel for the alleged contemnor at the outset ,submits that highest reverence and obedience is maintained towards the Hon'ble Court and contends that the applicant entitled to compensation in respect of RS Plot No.207, 208 and 209 measuring 0.020 acre, 0.035 acre and 0.022 acre respectively acquired vide L.A Case No.05 of 2011-2012 was served with several notices under Section 12(2) of The Land Acquisition Act 1894 dated 25.07.2013, 26.09.2013 and 18.11.2013 to receive a

redressal amount of Rs 6,94,078.00. However, the applicant failed to accept the notices and did not receive the amount of compensation.

9. It is submitted that on careful perusal of records of LA Case No. 06/ 78-79 whereby RS Plot No. 207,208 and 207/439 measuring area of 0.036 acre, 0.09 acre and 0.058 acre were acquired, the erstwhile owner of the abovementioned plot numbers had relinquished his right of compensation through registered deeds to the applicant. Further, at the time of preparation for assessment of redressal amount under The West Bengal Requisitioned Land (Continuation of Powers) Act 1951, no right of ownership was voiced for updating status by the applicant. Due to the non-feature of name in the land schedule against the plots of land, the applicant failed to produce relevant deed in support of his claim to compensation for LA Case No. 06/ 78-79.

10. Heard learned counsel for the respective parties and on perusal of the records this court is of the view that there can be no quarrel with the proposition that in a contempt jurisdiction, the court will not travel beyond the original judgment and direction, neither would it be permissible for

the court to issue any supplementary or incidental directions which are not to be found in the original judgment and order. In the instant case, scrutinising the order dated 05.02.2019 reveals that immediate delivery of rightfully assessed compensation of Rs.6,94,078.00 in L.A Case No. 5/11-12 to the applicant was called for, thereby complying with the directions of the Learned Single Judge passed in order dated 13.12.2017.

11. It is well settled law, before a proceeding for contempt can succeed, it is of paramount importance to establish firstly, the service of the order of the Court said to have been disobeyed upon the person alleged to have committed contempt thereof, secondly the precise act of contempt, thirdly the precise responsibility of the contemnor in the act of contempt, and fourthly the date of the alleged contempt being subsequent to the service of the order said to have been disobeyed. These are the four indispensable requisites and failure to establish any one of them must mean dismissal of the petition for contempt.

12. The Hon'ble Supreme Court in **Ram Kishan vs. Tarun Bajaj and others** reported in **2014**

AIR SCW 1218 opined that: -

" 9. Contempt jurisdiction conferred onto the law courts power to punish an offender for his wilful disobedience/contumacious conduct or obstruction to the majesty of law, for the reason that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but that by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi- criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. It would rather be hazardous to impose sentence for contempt on the authorities in exercise of contempt jurisdiction on mere probabilities."

13. In Jhareshwar Prasad Paul vs. Tarak Nath Ganguli, reported in **2002 (5) SCC 352**, the

Hon'ble Supreme Court formulated this principle as follows:

"11.The Court exercising contempt jurisdiction is not entitled to enter into questions which have not been dealt with and decided in the judgment or order, violation of which is alleged by the applicant. The Court has to consider the direction issued in the judgment or order and not to consider the question as to what the judgment or order should have contained.If the judgment or order does not contain any specific direction regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the court which disposed of the matter for clarification of the order instead of the court exercising contempt jurisdiction taking upon itself the power to decide the original proceeding in a manner not dealt with by the court passing the judgment or order."

In the present case, the applicant is not aggrieved by the direction issued in the judgment or order but instead is aggrieved by a separate cause of action which arose subsequently. The claim of the applicant that an area of land in question has not been considered and the amount of compensation

has not been properly calculated in order dated 05.02.2019 constitutes to be a separate legal claim.

14. In such view, the contempt application being CPAN No.1044 of 2018 would not be maintainable as no case of contempt has been made out. Hence, the contempt application lacks merit and the same is dismissed accordingly.

15. There will be no order as to costs.

16. Urgent certified copies, if applied for, be issued by the department on compliance of all requisite formalities.

(Rajarshi Bharadwaj, J.)