

M/S. SOORAJMULL NAGARMULL

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v.

SRI BRIJESH MEHROTRA & ORS.

Contempt Petition(c) Nos.726 -728 of 2017

In

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(Civil Appeal Nos.10394-10396 of 2011)

DECEMBER 14, 2021

[R. SUBHASH REDDY AND HRISHIKESH ROY, JJ.]

Contempt of Courts Act, 1971 – Contempt – When not – Land belonging to the petitioner acquired under 1894 Act – s.4 notification issued in 1981, possession taken – Land subsequently declared as protected forest – No award passed – Fresh/further notifications issued – Challenged by petitioner in writ petition, various other writ petitions pending – Award passed in 2006 purportedly pursuant to 1981 notification – High Court held that the possession and title of the land vested in the respondent-State – Petitioner's appeals in Supreme Court allowed vide order dtd.17.08.15 holding that land acquisition proceedings had lapsed and the provisions of 2013 Act were to apply; State directed to initiate fresh acquisition proceedings – Contempt petitions filed alleging violation of aforesaid directions – Fresh notification u/s.11, 2013 Act issued during the pendency thereof – Contempt petitions disposed of vide order dtd.29.08.16 observing that as possession of the land in question was already taken, the petitioner shall be paid compensation as per s.40, 2013 Act – State sought correction of the aforesaid order – IAs dismissed vide order dtd. 05.01.17 – Violation of orders dtd.17.08.15, 29.08.16 and 05.01.17 alleged – Held: In view of order dtd. 10.02.20 passed by this Court; the fresh notification dtd. 14.02.20 and the award dtd. 12.11.20, it cannot be said that respondents have violated the directions issued by this Court in the order dtd. 17.08.15 – Thus, in view of the last notification issued u/s.11, 2013 Act on 14.02.20 and the award passed by the authorities, it cannot be said that respondents have deliberately violated any directions issued by this Court –Further, when the notification was issued u/s.11, 2013 Act, without invoking urgency

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- A clause, the question of extending the benefits as per s.40, 2013 Act will not arise – Land Acquisition Act, 1894 – s.4, 6 – Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – ss.11, 40, 64, 66, 74 – Indian Forest Act, 1927 – s.29.
- B Dismissing the petitions, the Court
- HELD :** In the order dated 17.08.2015 passed by this Court in Civil Appeal Nos.10394-10396 of 2011, while quashing the acquisition proceedings on the ground that proceedings were lapsed, as the award was not passed within the prescribed period
- C in the Act, respondent-State was directed to initiate fresh acquisition proceedings or to take any other action available under law. Consequent to abovesaid order dated 17.08.2015 respondents have issued fresh notification on 14.11.2015, thereafter in the order dated 10.02.2020, this Court has noted the submission of the State that even the said notification dated 14.11.2015 also lapsed as no award was passed, as such fresh notification was issued thereafter on 14.02.2020. Pursuant to notification issued under Section 11 of the 2013 Act on 14.02.2020, award inquiry was conducted. Petitioner has filed its claim petition in the award inquiry on 08.06.2020. In view of the order dated 10.02.2020
- E passed by this Court and the fresh notification dated 14.02.2020 and the award dated 12.11.2020, it cannot be said that respondents have violated the directions issued by this Court in the order dated 17.08.2015. Aggrieved by the order dated 17.08.2015, when the review petition was dismissed, curative petition was filed and the same is pending. Further, when the notification was issued under Section 11 of the 2013 Act, without invoking urgency clause, the question of extending the benefits as per Section 40 of the 2013 Act will not arise. In view of the last notification issued under Section 11 of the 2013 Act on 14.02.2020 and the award passed by the respondent-authorities, it cannot be said that
- G respondents have deliberately and intentionally violated any directions issued by this Court, attracting the provisions of Contempt of Courts Act, 1971. It is open to the petitioner to avail the remedies available in the Act for proper determination of compensation but at the same time it cannot be said that respondents have violated directions issued by this Court. Section
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64 of the 2013 Act, makes it clear that any person interested, who has not accepted the award, by written application to the Collector may seek reference to the competent authority constituted under Section 66 of the 2013 Act. Even after adjudication made by such authority on reference, there is a further remedy available under Section 74 to the High Court. While it is open for the petitioner to pursue remedies available in law, this Court does not find any contempt as alleged by the respondents. [Paras 7-9][730-F-H; 731-A-D; 732-A-D] A

J.S. Parihar v. Ganpat Duggar & Ors. (1996) 6 SCC 291 : [1996] 6 Suppl. SCR 110; Delhi Development Authority v. Mahender Singh & Anr. (2009) 5 SCC 339 : [2009] 4 SCR 788; R.N. Dey & Ors. v. Bhagyabati Pramanik & Ors. (2000) 4 SCC 400 : [2000] 3 SCR 172 – relied on. C

<u>Case Law Reference</u>		
[1996] 6 Suppl. SCR 110	relied on	Para 8
[2009] 4 SCR 788	relied on	Para 8
[2000] 3 SCR 172	relied on	Para 8

INHERENT JURISDICTION : Contempt Petition (C) Nos.726-728 of 2017 in Civil Appeal Nos.10394-10396 of 2011. E

Petition filed for Contempt of this Court Order dated 17.08.2015, 29.08.2016 and 05.01.2017 in Civil Appeal Nos.10394-10396 of 2011 in Contempt Petition (C) No.726-728 of 2015 and I.A. Nos.28-30 of 2016.

Dr. A.M. Singhvi, Gopal Sankaranarayanan, Sr. Advs., Gautam Narayan, Ashok Kumar Jain, Pankaj Jain, Mrs. Meenakshi Jain, Bijoy Kumar Jain, Advs. for the Appellant. F

Ranjit Kumar, Sr. Adv., Manish Kumar, Advs. for the Respondents.

The Judgment of the Court was delivered by G

R. SUBHASH REDDY, J.

1. These contempt petitions are filed under Section 12 of the Contempt of Courts Act, 1971 read with Article 129 of the Constitution of India and Rule 3(C) of the Rules to Regulate Proceedings for Contempt H

- A of the Supreme Court, 1975, alleging that respondents have wilfully and deliberately violated directions issued by this Court in the order dated 17.08.2015, 29.08.2016 and 05.01.2017 passed in Civil Appeal Nos.10394-10396 of 2011 and in Contempt Petition(C)Nos.726-728 of 2015 and I.A.Nos.28-30 of 2016 in the said contempt petitions.
- B 2. The land admeasuring 29.38 acres belonging to the petitioner situated at Bhagalpur, Bihar was acquired under provisions of the Land Acquisition Act, 1894 (for short, 'the Act'). The notification under Section 4(1) of the Act was issued at the first instance on 25.03.1981. Pursuant to abovesaid notification, possession of the land along with the structures was taken on 20.08.1981. Said land was subsequently declared as a protected forest under Section 29 of the Indian Forest Act, 1927. A notification to that effect was issued under Indian Forest Act on 04.09.1990.
- C 2(a). As no award was passed pursuant to the notification issued under Section 4(1) of the Act, a fresh notification under Section 4(1) of the Act was issued on 24.05.1995 and there was also further notification to the same effect on 17.08.1996. When the subsequent notification was issued, same was challenged before the High Court. The said writ petition was allowed in the year 1998. In the counter affidavit filed before High Court, respondents have taken the stand that earlier acquisition proceedings for which notification was issued lapsed, as the award was not passed within the statutory period. The petitioner herein also filed another writ petition seeking directions against the respondent-State to release the land in question and hand over the possession to him. There was also a writ petition by Divisional Forest Officer challenging the action of the State in taking steps to withdraw acquisition proceedings.
- D F There was also a writ petition filed as a public interest litigation, for protecting and preserving the forest. When such petitions were pending, an award was passed on 27.09.2006, purportedly pursuant to 1981 notification. All the three writ petitions were heard together by the High Court. When the High Court has held, notwithstanding the delay in passing the award, possession of the land as well as title vested in the respondent-State, matters have come to this Court in Civil Appeal Nos.10394-10396 of 2011. By order dated 17.08.2015, civil appeals filed by the petitioner were allowed holding that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act'), will apply as much as State has not
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progressed beyond making a declaration under Section 6 of the Act, pursuant to subsequent notification. The land acquisition proceedings were declared lapsed by this Court, and the respondent-State was directed to initiate fresh acquisition proceedings or to take any other action available under law within six weeks from the date of passing of the order.

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3. Alleging wilful and deliberate violation of the directions issued in the aforesaid order, passed on 17.08.2015, earlier contempt petitions were filed in Contempt Petition(C) Nos.726-728 of 2015. As much as fresh notification was issued during the pendency of the contempt petitions under Section 11 of the 2013 Act, the contempt petitions were disposed of, vide order dated 29.08.2016. The said order reads as under :

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“It has been submitted by the learned senior counsel appearing for the petitioner that the possession of the land in question has already been taken by the authorities.

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If that is so, we are sure that the petitioner shall be paid the amount of compensation in accordance with law i.e. as per the provisions of Section 40 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In these circumstances, the contempt petition does not survive and therefore, the learned senior counsel appearing for the petitioner seeks permission to withdraw the same.

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Permission is granted and the contempt petitions are disposed of as withdrawn.”

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The respondent-State has subsequently filed I.A.Nos.28-30 of 2016 seeking correction of the order dated 29.08.2016, the said IAs were dismissed by order dated 05.01.2017.

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4. We have heard Dr. A.M. Singhvi and Mr. Gopal Sankarnarayanan, learned senior advocates appearing for the petitioner and Mr. Ranjit Kumar, learned senior advocate for the respondents.

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5. Mainly it is the contention of the learned senior counsels for the petitioner that, respondents have violated deliberately and wilfully, the series of directions issued by this Court. It is submitted that at first instance land was acquired by invoking urgency clause, and inspite of directions for payment of compensation by following the provisions under Section 40 of the 2013 Act, respondents have passed the award without adhering

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- A to Section 40 of the 2013 Act and by treating the land as agricultural forest land. It is the case of the petitioner that land acquired was used for construction of office and residential buildings, and inspite of the same, contrary to various directions issued by this Court, land is treated as agricultural forest land, a concept unknown to law. It is submitted that
 - B when the applications were filed for correction of the order dated 29.08.2016, the said applications were also dismissed vide order dated 05.01.2017 and benefits were not granted as per Section 40 of the 2013 Act.
6. Counter affidavit is filed on behalf of the respondents. While
- C denying various allegations made by the petitioner, it is the case of the respondents that in compliance of the directions issued by this Court in the order dated 17.08.2015 a fresh notification was issued which was also declared as lapsed by this Court in the order dated 10.02.2020 by recording the statement made on behalf of the State that a fresh notification would be issued. In the said order this Court has clarified that the court
 - D has not expressed any opinion on the nature of the land etc. and left open all the issues. It is stated that in view of the order dated 10.02.2020, a fresh notification was issued on 14.02.2020 under Section 11 of the 2013 Act and after following the necessary procedure award was passed on 12.11.2020. As such there was no violation of any directions issued by the Court much less any wilful violation as alleged by the petitioner. It
 - E is the case of the respondents that if the petitioner is aggrieved by the determination of compensation, it is always open for the petitioner to avail remedy under Section 64 of the 2013 Act. Without availing such remedy under guise of contempt, petitioner is trying to enlarge the scope of directions issued by this Court.
- F 7. In the order dated 17.08.2015 passed by this Court in Civil Appeal Nos.10394-10396 of 2011, while quashing the acquisition proceedings on the ground that proceedings were lapsed, as the award was not passed within the prescribed period in the Act, respondent-State was directed to initiate fresh acquisition proceedings or to take
- G any other action available under law. Consequent to abovesaid order dated 17.08.2015 respondents have issued fresh notification on 14.11.2015, thereafter in the order dated 10.02.2020, this Court has noted the submission of the State that even the said notification dated 14.11.2015 also lapsed as no award was passed, as such fresh notification was issued thereafter on 14.02.2020. Pursuant to notification issued under
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Section 11 of the 2013 Act on 14.02.2020, award inquiry was conducted. Petitioner has filed its claim petition in the award inquiry on 08.06.2020.

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8. In view of the order dated 10.02.2020 passed by this Court and the fresh notification dated 14.02.2020 and the award dated 12.11.2020, it cannot be said that respondents have violated the directions issued by this Court in the order dated 17.08.2015. Aggrieved by the order dated 17.08.2015, when the review petition was dismissed, curative petition was filed and the same is pending. With regard to submission of Dr. Singhvi, learned senior counsel, that the respondents have not granted the benefits as per Section 40 of the 2013 Act, it is to be noted that subsequent in the latest notification issued under Section 11 of the 2013 Act respondents have not invoked urgency clause at all. When the notification was issued under Section 11 of the 2013 Act, without invoking urgency clause, the question of extending the benefits as per Section 40 of the 2013 Act will not arise. In the judgment in the case of **J.S. Parihar v. Ganpat Duggar & Ors.**¹, relied on by learned senior counsel Sri Ranjit Kumar, appearing for the respondents, it is observed by this Court that once there is an order passed by the Government on the basis of directions issued by this Court, there arises a fresh cause of action to seek redressal in an appropriate forum. Further in the judgment of the Court in the case of **Delhi Development Authority v. Mahender Singh & Anr.**² this Court has observed that the Land Acquisition Act is a complete code by itself and lays down detailed procedure for acquisition of land, payment of compensation and common law principles of justice, equity and good conscience cannot be extended contrary to provisions of the Statute. In the judgment in the case of **R.N. Dey & Ors. v. Bhagyabati Pramanik & Ors.**³ this Court has held that a decree obtained under Land Acquisition Act, is an executable decree and no contempt can be maintained for non-compliance of such decree. In the same judgment it is observed that weapon of contempt is not to be used in abundance or misused. It is further observed that discretion given to the court in dealing with the proceedings under Contempt of Courts Act is to be exercised for maintenance of court's dignity and majesty of law and further an aggrieved party has no right to insist that court should exercise such jurisdiction, inasmuch as contempt is between contemner and the court.

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¹(1996) 6 SCC 291

²(2009) 5 SCC 339

³(2000) 4 SCC 400

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- A 9. In view of the last notification issued under Section 11 of the 2013 Act on 14.02.2020 and the award passed by the respondent-authorities, it cannot be said that respondents have deliberately and intentionally violated any directions issued by this Court, attracting the provisions of Contempt of Courts Act, 1971. Though detailed submissions were advanced by the learned senior counsel appearing for the petitioner
- B stating that land was wrongly categorized in the award for fixation of market value, while it is open to the petitioner to avail the remedies available in the Act for proper determination of compensation but at the same time it cannot be said that respondents have violated directions issued by this Court. Section 64 of the 2013 Act, makes it clear that any
- C person interested, who has not accepted the award, by written application to the Collector may seek reference to the competent authority constituted under Section 66 of the 2013 Act. Even after adjudication made by such authority on reference, there is a further remedy available under Section 74 to the High Court. In that view of the matter while it is open for the petitioner to pursue remedies available in law, we do not find any contempt as alleged by the respondents. For the aforesaid reasons these contempt petitions are dismissed, with no order as to costs. We make it clear that we have not expressed any opinion either on the categorization of the land or on the determination of market value in the award dated 12.11.2020. All the issues are left open.

Divya Pandey

Petitions dismissed.