

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2360 OF 2021

(ARISING OUT OF SPECIAL LEAVE PETITION (CIVIL) NO. 8579 OF 2021)

AJAY KUMAR AND OTHERS APPELLANT(S)

VERSUS

KEWAL KUMAR JAGGI AND OTHERS RESPONDENT(S)

ORDER

Leave granted.

2. This appeal is directed against the judgment and order dated 24.06.2021 in Contempt Case No. 708 of 2020 passed by the High Court of Madhya Pradesh, Principal Seat at Jabalpur.

3. The contempt petition was instituted by the respondents alleging wilful disobedience of the directions in Writ Petition (C) No. 21481 of 2013. The respondents, as land owners of about 51.57 acres, had filed the afore-stated writ petition alleging that they were being obstructed by the appellants from carrying out any kind of activities on their land. This was notwithstanding that the land had not been notified under Section 3 of the Works of Defence Act, 1903 (hereinafter referred to as the '1903 Act'). The reliefs claimed in the writ petition read thus:

"7. RELIEF SOUGHT:

In view of the facts mentioned in para 5 above, the petitioner prays the following reliefs:

- (i) The Hon'ble High Court may kindly be pleased (to) issue a writ of mandamus against the respondents not to disturb or restrain the respondents not to interfere in the using of the land by the Petitioners.
- (ii) This Hon'ble Court (may) further direct to the respondents not to disturb to user and possession of the Petitioners.
- (iii) Any other efficacious remedies and or relief/ reliefs, which this Hon'ble High Court deems fit and proper, in the circumstances of the case kindly be granted to the petitioners in the interest of justice.

8. INTERIM ORDER, IF ANY PRAYED FOR:

Till the final disposal of the main petition the respondents may kindly be restrained not to interfere or disturb or to user and possession of the Petitioner in the land.”

- 4. During pendency of the writ petition, a notification dated 06.05.2016 under the 1903 Act was published in respect of the land comprised in the area lying within the distance of 1000 yards from the crest of the outer perimeter wall of Military Station at Sukhlapur in the District of Jabalpur in the State of Madhya Pradesh, directing that this land be kept free from construction of buildings and other obstructions from the date of publication of the notification. The notification also imposes the restrictions specified in clause (b) of Section 7 of the 1903 Act.
- 5. In view of the aforesaid notification, Writ Petition (C) No. 21481 of 2013 was disposed of, vide judgment and order dated 30.08.2017, making reference to Sections 4 and 5 of the 1903 Act, with the direction that it was obligatory on the part of the appellants to proceed further and pay

damages on account of restrictions imposed regarding use of the land.

The following directions were issued:

“(i) That the respondents shall take appropriate steps to determine the damages and payment of damages to the petitioners on account of imposition of restrictions in regard to use of lands after publication of notification under Section 3 of the Act of 1903 within a period of six months from the date of receipt of copy of this order.

(ii) If the respondents fail to pay damages and will not determine the same within the stipulated period, the petitioners are at liberty to take appropriate action and they are at liberty to file appropriate proceedings in accordance with law. The petitioners can also challenge the notification issued under Section 3 of the Act of 1903 quoted above in the order. No order as to costs.”

6. Alleging non-compliance, the respondents had filed Contempt Case No. 1014 of 2018, which was disposed of by order dated 06.04.2018 directing the appellants to comply with the order dated 30.08.2017 passed in Writ Petition (C) No. 21481 of 2013 within a further period of six months from the date of receipt of certified copy of that order. Liberty was also given to the respondents to file another contempt petition, if required, with the observation that costs would be imposed and recovered from the erring officer.
7. The respondents, again alleging non-compliance, filed the second Contempt Case No. 2959 of 2018 on or about 23.10.2018, a copy of which is not available on record. The appellants, in response to the contempt petition filed affidavits stating that vide letter dated 24.08.2018 they had

requested the Collector, Jabalpur to intimate the amount of compensation to be paid to the owners for the restrictions imposed. This was followed by the Ministry's letter dated 13.09.2018 to the Chief Secretary, Government of Madhya Pradesh to issue directions to the Collector to take necessary action for computation of the compensation and payment. The Collector, Jabalpur, however, incorrectly invoked provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and asked the local military authority to deposit more than Rs.10.55 crores. It is obvious that the determination was erroneous.

8. The appellants thereupon were compelled to approach the revenue authorities once again stating that the compensation should be determined in terms of Sections 23 and 24 of the 1903 Act and not under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Thereafter, several letters were exchanged between the appellants and the local authorities. On 03.08.2019, the Collector, Jabalpur, informed the appellants that total cost of the land on the said date was valued at Rs.16,39,35,000/- and that the compensation amount payable was Rs.6,06,92,170/-. The appellants once again protested vide letter dated 09.08.2019 to the Collector stating that the compensation should not be computed on the actual cost of the land, but determined in terms of provisions of Sections 23 and 24 of the 1903 Act.

Finding merit in the said objection, the Collector undertook fresh exercise and determined the compensation vide his award dated 27.09.2019 fixing it at Rs.1,96,97,200/-.

9. The second contempt petition was dismissed by the Single Judge recording that an award dated 27.09.2019 had been passed and the proposal had been sent to the Ministry of Defence for disbursement of the awarded amount. Liberty was granted to the respondents to approach the appropriate forum in case grievance would exist, observing that the question of limitation would not be a bar.
10. On or about 06.03.2020, the respondents filed the third Contempt Case No. 708 of 2020 in which the impugned order dated 24.06.2021 has been passed, *inter alia* observing that the appellants had already deposited Rs.1,96,97,200/- before the Collector and this amount may be released/disbursed to the respondents within fifteen days.
11. The appellants are not satisfied and are disputing the compensation of Rs.1,96,97,200/- determined by the Collector. They have, accordingly, filed a reference before the District Judge under Section 18 of the 1903 Act. They have approached the Collector with an application that the amount of Rs.1,96,97,200/- should not be released/disbursed to the respondents. In addition, the appellants filed an application before the High Court in the

contempt proceedings seeking reference of the award under Section 18 of the 1903 Act. They had also filed an affidavit requesting the High Court to drop the contempt proceedings and call upon the respondents to participate in the proceedings under Section 18 of the 1903 Act.

12. To add to the aforesaid confusion, the appellants, it appears, have, post the impugned order, passed an order dated 02.07.2021 under Section 3 of the 1903 Act, determining the compensation @ 5% of the land, i.e. Rs.30,45,200/-. Addition of 15% in terms of Section 23(2) of the 1903 Act, i.e. Rs.4,56,700/- has been made. Total amount of compensation as determined is Rs.35,01,980/-. This order observes that the respondents would be entitled to interest on compensation @ 6% per annum in terms of Section 34 of the 1903 Act.

13. We have referred to the aforesaid proceedings to highlight that the contempt proceedings have, in the present case, proceeded as if all issues and questions that required determination and adjudication. The orders passed in the second and third contempt petitions have, therefore, gone beyond the scope and ambit of the order dated 30.08.2017 passed in Writ Petition (C) No. 21481 of 2013. The impugned order and the directions given therein, therefore, cannot be sustained and are liable to be set aside. Ordered accordingly.

14. However, for doing complete justice and for ensuring that there is no further confusion, we are inclined to pass the following directions:

- (a) The reference petition pending before the 29th Additional District Judge, Jabalpur in Case No. MJC/6337/2020 CNR: MP200L0195912020 filed by the appellants against the determination of compensation amount by the Collector, Jabalpur, be decided expeditiously and in accordance with law. Before proceeding with the said reference on merits, the court may examine the preliminary objection of the respondents that reference at the instance of the appellants being beneficiary, is not maintainable.
- (b) The respondents would be also at liberty to file a reference before the District Judge for enhancement of the compensation.
- (c) The reference filed by appellants be decided uninfluenced by the fact that the appellants had failed to pass any order under Section 3 of the 1903 Act or that the order dated 02.07.2021 has been passed post the impugned order.
- (d) It will be open to the appellants to apply for stay against disbursement of the compensation amount lying deposited with the Collector, Jabalpur. Equally, it will be open to the respondents to approach the Collector for release of the amount to them. Such applications be decided on its own merits and in accordance with law.

All contentions and further remedies available to both sides are left open.

(e) We clarify that we have not commented on any of the above aspects or on the question of computation of compensation as the said issue has to be determined in the reference.

15. The civil appeal is allowed in the above terms. Pending application(s), if any, also stand disposed of.

.....J.
(A.M. KHANWILKAR)

.....J.
(SANJIV KHANNA)

NEW DELHI;
JULY 08, 2021 .

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8579/2021

(Arising out of impugned final judgment and order dated 24-06-2021 in CONC No. 708/2020 passed by the High Court Of M.P Principal Seat At Jabalpur)

AJAY KUMAR & ORS.

Petitioner(s)

VERSUS

KEWAL KUMAR JAGGI & ORS.

Respondent(s)

(IA No. 74846/2021 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 74842/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 74845/2021 - EXEMPTION FROM FILING O.T. and IA No. 75054/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 08-07-2021 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s)

Mr. R. Balasubramium, Sr. Adv.
Mr. Sachin Sharma, AOR

For Respondent(s)

Mr. V.K. Shukla, Adv.
Mr. Sugam Mishra, Adv.
Mr. S.P.M. Tripathi, Adv.
Mr. Manish Kumar, Adv.
Mr. Satish Kumar, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The Civil Appeal is allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER(VIDYA NEGI)
COURT MASTER

[Signed order is placed on the file]

