

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Contempt Case No.298 of 2020

ORDER :

This Contempt Case is preferred by the petitioners to punish the respondents for willful disobedience of the order dt.12.10.2018 in I.A.No.1 of 2018 in Writ Petition No.37623 of 2018 passed by this Court under Sections 10 to 12 of the Contempt of Courts Act, 1971.

2. Petitioners are land owners and small farmers of agricultural lands in Anantagiri village, Illanthakunta Mandal, Rajanna Sircilla District of erstwhile Karimnagar District. Their lands along with those of others were acquired for construction of Anantagiri Reservoir under Kaleswaram Project Package No.10 under two preliminary notifications issued under Section 11(1) of the Right to Fair Compensation, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013). The first of such notifications was published in the Telangana Gazette No.01, dt.08.05.2016, for Acs.69.22 ½ gts. and the second such notification was published in proceeding No.G/555/2017 dt.01.02.2017 for Acs.257.37 gts.

3. Petitioners filed the above Writ Petition in October, 2018 contending that the respondents in the Writ Petition did not follow any mandatory procedure with regard to conduct of Grama Sabha under Section 11(2) of the said Act, updating of land records under Section 11(5) of the Act, affording personal hearing on objections filed under

Section 15(2) of the Act and procedures relating to determination of Resettlement and Rehabilitation entitlements as per Sections 16 to 18 of the said Act. It is also contended that the District Collector did not revise and update the market value of the lands as per third proviso to Sub-Section (3) of Section 26 of the Act. They alleged that without following the above mandatory procedures two declarations under Section 19(1) of the Act were issued vide proceedings No.G/555/2017 dt.01.01.2017 and 16.05.2017. They alleged that their names were mentioned in these two declarations. Details of lands of petitioners are mentioned in an Annexure filed to the affidavit in the Writ Petition.

4. It is also pointed out that during award enquiry, and before passing of awards, petitioners represented that they were not satisfied with compensation being determined by the respondents and that they pointed out that issues regarding measurement of land, structures and apportionment of compensation were brought to the notice of the respondents and that the respondents ignored the same and passed awards without properly assessing compensation. They alleged that some of the petitioners took compensation under protest.

5. Petitioners contended that the respondents did not pass complete awards under Section 23 of the Act, but have passed awards only for compensation under Section 30 of the Act and that *Resettlement and Rehabilitation Award under Section 31 of the Act for depriving petitioners of their agricultural lands, have not been passed*

by the date of filing of the Writ Petitions and even now. According to them, the process of house-hold survey, enumeration of eligible Project-Affected families and determination of Resettlement and Rehabilitation entitlements for each family are also not finalized yet, and that none of the petitioners were paid any Rehabilitation and Resettlement entitlements as per II Schedule to the Act.

6. They contended that according to Section 38 of the Act the respondents are barred from taking possession of the lands or commence any work without paying full compensation as well as *Rehabilitation and Resettlement entitlements to the petitioners.*

Order dt.12.10.2018 in I.A.No.1 of 2018

7. They had filed I.A.No.1 of 2018 to restrain the respondents from taking possession of their agricultural lands mentioned in the declarations issued on 01.01.2017 and 16.05.2017 under Section 19(1) of the Act and to restrain the respondents from taking up any further construction works in the said lands pending disposal of the Writ Petition.

8. On 12.10.2018, in I.A.No.1 of 2018 in W.P.No.37623 of 2018 this Court passed the following order :

“Petitioners contend that no relief and rehabilitation benefits have been paid to them under Section 31 of Act 30 of 2013 and that under Section 38, petitioners cannot be dispossessed till such payment.

Learned Government Pleader for Land Acquisition seeks time to get instructions.

Therefore, there shall be interim direction as prayed for.”

The instant Contempt Case

9. This Contempt Case has been filed stating that the above interim order has been violated by the respondent nos.1 to 3.

10. The 1st respondent is the District Collector of Rajanna Sircilla District. The 2nd respondent is the Joint Collector and Administrator, Rehabilitation and Resettlement, Rajanna Sircilla District. The 3rd respondent is the Land Acquisition Officer – cum – Revenue Divisional Officer, Rajanna Sircilla Division, Rajanna Sircilla District.

11. Petitioners contend that the above interim order was communicated by petitioners to the 3rd respondent on 22.10.2018 and he was requested not to further damage crops and lands; that works were temporarily stopped for a brief period; but in March, 2019, works were taken up in some of the lands which are subject matter of the Writ Petition. It is contended that a representation dt.27.03.2019 was submitted by the petitioners to the 3rd respondent specifying the survey numbers of the lands where the works were started, but he did nothing. Instead the petitioners were threatened by the police employed by the respondents for opposing the said acts.

12. Petitioners contended that as a result of the works carried out by the respondents, their lands got submerged with water from upstream in October, 2019 and that under 2nd proviso to Section 38 of the Act

the respondents could not have caused such submergence without paying Rehabilitation and Resettlement entitlements at least 6 months *before* the date of the award under Section 30 of the Act. Petitioners contend that standing paddy crop and other crops raised by them were damaged and there was also loss on account of income and livelihood. Photographs of the submerged lands were filed along with the affidavit filed in support of the Contempt Case.

13. Petitioners contend that though they represented on 11.10.2019 and 15.10.2019 to the 3rd respondent, but he did nothing.

14. Petitioners contend that *houses* of some of the petitioners were also acquired along with their *agricultural lands* under different notifications issued under Section 11 of the Act and in respect of the said acquisition of houses, notices for rehabilitation and resettlement were separately issued in November, 2019 to such petitioners, *but the said notices are not related to the acquisition notification of petitioners' agricultural lands.*

15. They therefore sought punishment to all respondents for willful disobedience of the order dt.12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018 under Sections 10 and 12 of the Contempt of Courts Act, 1971.

Other events

16. It is a matter of record that the respondents filed on 12.12.2018, I.A.No.2 of 2018 to vacate the order dt.12.10.2018 in I.A.No.1 of

2018 in W.P.No.37623 of 2018, but till date they have not got the said application listed before any Bench of this Court though more than 2 years have elapsed since it's filing.

17. The Hon'ble Chief Justice Sri Justice Raghavendra Singh Chauhan, on the request of the Additional Advocate General of the State of Telangana, had taken an administrative decision in November, 2019 not to list vacate stay applications in Writ Petitions along with the Contempt Petitions filed by petitioners alleging non-compliance of interim orders passed in Writ Petitions *by me* thus depriving me of an opportunity to hear the vacate stay applications in the Writ Petitions with the Contempt Case. The Registrar (General) had informed me of the said administrative decision of the Hon'ble Chief Justice. Therefore, there was no possibility for me to request for listing of the said I.A.No.2 of 2018 before me so that the same can also be considered by me along with the Contempt Case.

18. The respondents filed separate counter-affidavits enclosing about 840 pages of material papers.

19. To avoid repetition, their contentions are referred to and considered below.

Consideration by the Court of the stand of the respondents :

20. The 1st respondent contended that he was not serving in the District of Rajanna Sircilla either on 22.10.2018, when the interim

order was communicated to the 3rd respondent or on 27.03.2019 when the petitioners made representation to 3rd respondent.

Petitioners contend that 1st respondent was the District Collector, Rajanna Sircilla District when petitioners made representations on 11.10.2019 and 15.10.2019, but he did not do anything and that 1st respondent cannot claim that because he was not holding office on 22.10.2018 and 27.03.2019, he has no responsibility to ensure obedience to the orders of this Court.

I agree with the said submission of the petitioners because petitioner was admittedly the District Collector of the said District in October, 2019 when the agricultural lands of petitioners were submerged (this is discussed below in detail) and it was his duty to prevent its violation since the Office of District Collector, Rajanna Sircilla District was a party in the Writ Petition (5th respondent in the WP) and to the said order dt.12.10.2018 and it binds him as well even if he joined later in the said Post.

21. The 1st respondent then contended that he had perused the file record in the Collectorate and he observed that no part of petitioners' lands were handed over to any agency for irrigation work after 12.10.2018.

Petitioners contend that this is a false plea because petitioners' lands are under submersion from October, 2019.

Along with the additional counter of 1st respondent, certain Annexures have been filed. At page no.225 of such Annexures is an award in L.R.No.G6/3166/2017 dt.11.01.2019 passed by the 3rd respondent for acquisition of structures and houses in Abadi and Patta lands in Anantagiri Village and at page no.283 in the said Award, it is specifically recorded '*the agricultural lands of the village have been acquired leaving a balance of the land covered by the houses / structures in the village, and the total land of the village has been handed over to the Irrigation Department*'. (emphasis supplied)

This clearly disproves the statement of the 1st respondent that no part of the petitioners' land was handed over to any agency for irrigation work, and that the said plea is a false plea contrary to record. Even by 11.01.2019, the entire agricultural lands in the village had already been handed over to the Irrigation Department by the said department to the contractors engaged by it.

22. The 1st respondent contended that certain details of land acquisition and Resettlement and Rehabilitation benefits were disbursed to the petitioners and referred to them in para no.5 of the counter-affidavit.

Petitioners pointed out that the *agricultural lands* in Anantagiri Village were acquired in different stages by issuing different notifications under Section 11(1) and declarations under Section 19(1) of the Act. They also pointed out that notifications for acquisition of

houses of petitioners in Anantagiri Village were separately issued; that notifications for *agricultural lands* and *houses* are distinct and separate; and documents filed by respondents do not indicate about such stage-wise acquisition or stage-wise provision of Resettlement and Rehabilitation entitlements as required under Section 19 of the Act; and the respondents cannot club the notifications for *agricultural lands* and *houses* together.

Petitioners contend that the respondents are trying to mislead this Court by showing awards for payment of compensation for acquisition of *agricultural lands* and awards passed for Resettlement and Rehabilitation for acquisition of *houses* and trying to pass them off as awards for Resettlement and Rehabilitation for acquisition of *agricultural lands* of the petitioners. I agree with the said contention.

To a specific question put by me to the Special Government Pleader, Sri A. Sanjeev Kumar, attached to the Office of the Additional Advocate-General to show to me a single award under Section 31 of the Act r/w Schedule II of the Act towards Resettlement and Rehabilitation for acquisition of *agricultural lands* of the petitioners under the notifications mentioned by the petitioners above, he was not able to point out to a single document in any of the Annexures filed along with the counter-affidavits filed by the respondents to show that such awards were passed and such compensation was paid.

23. Moreover, a Resettlement and Rehabilitation award under Section 31(1) of the Act is supposed to be passed along with the compensation award under Section 30 of the Act as per Section 23(b) of the Act. This legal position is also not disputed by the Special Government Pleader. Admittedly, this provision was not complied with.

24. Though the 1st respondent pleaded in para no.6 that attempts were not made to dispossess the petitioners from their agricultural lands or residential houses at any point of time, this is also a false plea as petitioners' lands were dug away and submerged on account of inundation as can be seen from photographs filed by the petitioners and it is to be expected to happen once the entire village was handed over to the Irrigation Department as admitted in page no.283 referred to above by the 3rd respondent.

In fact, newspaper reports of Sakshi Newspaper and Telangana Today dt.20.02.2020 indicate that there was a direction by the Principal Secretary, Irrigation Department of State of Telangana to complete all works pertaining to Kaleswaram Project on war-footing in March, 2020 since the Government intended to release Godavari water into the Anantagiri Reservoir, Ranganayaka Sagar and Kondapochamma Sagar.

It is not even denied by the Special Government Pleader that such water from river Godavari was released in all the three

Reservoirs by May, 2020, after the COVID-19 pandemic lockdown commenced.

A Division Bench of this Court, to which I am a party, had recorded this fact in a judgment reported in **Merugu Narsaiah @ Narsimha Reddy vs. State of Telangana**¹ at para no.47(C).(d), Pg.524 and also para no.47(E) at pg.525.

25. In para no.7 of the counter of the 1st respondent a plea is raised by the 1st respondent that a petitioner cannot claim Rehabilitation and Resettlement benefits two times – once for loss of agricultural land and another for loss of house, and that Rehabilitation and Resettlement benefits are payable only to Project Displaced Family.

As regards the first plea, it is not stated by 1st respondent which provision disentitles the petitioners to claim Rehabilitation and Resettlement benefits under Section 31 for loss of agricultural land, if they are paid such entitlements for loss of houses. In law, there is no such bar.

Act 30 of 2013 specifically provides that for every notification issued under Section 11(1) of the Act for acquisition of immovable property, a scheme for Rehabilitation and Resettlement has to be prepared and then only declaration under Section 19(1) of the Act has to be issued. Then a Resettlement and Rehabilitation Award under Section 31 of the Act has to be passed along with the compensation

¹ 2020 (4) A.L.D. 510 (D.B.)

Award under Section 30; after so extending such benefits, then only under Section 38 possession of the land can be taken. In my opinion, the Act in fact makes it clear that each notification for acquisition of land is a separate and distinct event of acquisition and for each such event, the land loser is entitled to Rehabilitation and Resettlement benefits.

As regards the other plea, in an order dt.02.05.2018 in W.P.(PIL) No.191 of 2016, a Division Bench presided over by the then Acting Chief Justice categorically held that a land owner who loses land or other immovable property to acquisition process by the State would fall within the definition of '*affected family*' under Section 3(c) (i) of the Act. So this plea of the 1st respondent also runs contrary to this binding precedent.

26. The contents of para 8 and 9 of the counter affidavit of the 1st respondent relate to acquisition of houses and homestead lands which are subject matter of different notifications and the 1st respondent is trying to mislead the Court by projecting as if Rehabilitation and Resettlement Awards were passed in favour of the petitioners for acquisition of their *agricultural lands*, which was not done.

27. The plea in para 10 of the counter of the 1st respondent that petitioners' lands are not submerged is a false plea and has already been dealt with above. The photographs filed by the petitioners show that petitioners' lands are inundation and submergence because

construction works were allowed by the respondents. When the respondents had declared that the works relating to Anantagiri Reservoir are complete and water is going to be released from River Godavari in first week of March, 2020, this plea of the 1st respondent cannot be believed.

28. In the additional counter affidavit filed by the 1st respondent he had given details of certain notifications issued for acquisition of *residential houses* in Anantagiri Village and Awards passed in relation thereto for compensation *and* Rehabilitation and Resettlement.

29. Again in page 5 of the said additional counter affidavit a false plea is raised that Rehabilitation and Resettlement Awards in respect of agricultural lands were also passed and amounts paid.

As pointed out above, the Special Government Pleader appearing for the Additional Advocate General is unable to show any document proving that Rehabilitation and Resettlement Awards under Section 31 for the agricultural lands of the petitioners which were acquired, were passed or that any payment in that regard was made to any of the petitioners.

30. The contents of the counter affidavits of respondents 2 and 3 are identical with those of the counter affidavit of the 1st respondent.

31. The plea therein that no attempts were made to dispossess the petitioners from their agricultural lands and residential houses is a

false plea. No Award under Section 31 of the Act is shown to have been passed in respect of the agricultural lands of the petitioners which have been acquired.

32. The interim order passed by this Court on 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018 restraining respondents from taking possession of the petitioners' agricultural lands continues to subsist and has not been vacated till date. The said direction would continue to operate unless vacated even if Rehabilitation and Resettlement Awards under Section 31A for agricultural lands of the petitioners which are acquired, are passed.

33. I hold that petitioners were dispossessed from their lands in October, 2019 itself and their lands were submerged as alleged in the Contempt Case and all the respondents have thus willfully disobeyed the order dt.12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018.

34. In this view of the matter, the Contempt Case is allowed; the respondents 1 to 3 are sentenced to simple imprisonment for three (3) months and fine of Rs.2,000/-. They shall also pay costs of Rs.10,000/- to each of the petitioners within four (4) weeks.

35. The petitioners shall deposit subsistence allowance at Rs.200/- per day for each of the respondents within six (6) weeks. The sentence of imprisonment imposed on the respondents is suspended for six (6) weeks.

36. An adverse entry shall be recorded in the service records of respondents as regards their willful disobedience of the orders dt.12.10.2018 passed by this Court in I.A.No.1 of 2018 in W.P.No.37623 of 2018.

37. As a sequel, miscellaneous petitions pending if any in this, shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 25.02.2021

Ndr

