

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONTEMPT PETITION (CIVIL) NO. 1041 OF 2018

IN

SPECIAL LEAVE PETITION (CIVIL) NO. 26845 OF 2017

MANASH MOHAN CHATTERJEE ANR ANR. Petitioners

VERSUS

Y. RATNAKAR RAO AND ORS.Respondent/
Alleged Contemnors

ORDER

1. This Contempt Petition has been initiated against the respondents/alleged Contemnors for deliberate and wilful violation of the order dated 27-10-2017 passed by this Hon. Court in SLP(C) No. 26845 of 2017.
2. The Brief facts which are necessary for adjudicating the dispute involved in the present Contempt Petition in a nutshell are as follows: The father of Contempt Petitioners (Predecessor in interest) i.e. Sumohan Chatterjee, since deceased, was the owner of land in question ad-measuring 2 Bighas 7 Cottas 1 Chittacks

bearing number 5K 333 within the Mouza Kasba, District - South 24 Parganas. In the year 1983, the said Sumohan Chatterjee the father of Contempt Petitioners died. In the year 1999, the Contempt Petitioners having come to know that the aforesaid property was acquired by the State, approached the State Authorities, wherein it was declared that the property was acquired by the State and compensation was duly paid.

3. The Contempt Petitioners filed title suit being T.S. No. 117 of 2004 stating that they have neither received any notice of acquisition nor has been paid compensation by the State. The suit was dismissed vide order dated 30-06-2011.
4. The Contempt Petitioners then filed Title Appeal No. 235 of 2011 before Additional district Judge and the same was allowed vide its order dated 29-6-2013, entitling mandatory injunction and holding that the Contempt Petitioners do get a decree of declaration of title and recovery of the possession in respect of the suit land. The respondents were permanently restrained from making any other construction on the suit land and directed to vacate the suit land and to give khash possession to the Contempt Petitioners within two months.

5. Thereafter, Contempt Petitioners filed WP No. 21429(w) of 2014 before High Court seeking a writ of Mandamus against the State alleging therein that it was impossible to execute the decree passed in Title Appeal No. 235 of 2011 and to recover Possessions because of massive construction has taken place in the property by the government and also having transferred same to the Institute of Nuclear Physics.
6. Learned. Single Judge vide order dated 02-06-2015 allowed the writ petition holding that properties belonging to the contempt petitioners were never acquired and the same has been taken over by the State authorities without following due process. The High Court further directed to the State Authorities to acquire the property of the contempt petitioners following the relevant provisions of law and to pass an award and make payment of compensation within period of six months.
7. Aggrieved by that, State went in appeal being MAT No. 347/2016 before division bench of High Court and on 21-08-2017, Division Bench confirmed the order of the Single Judge and directed the completion of acquisition proceedings before 31-12-2017 and in default for each day respondents shall pay compensation of Rs. 50,000/- to the contempt petitioners.

8. Being Aggrieved, State appealed before this Court by way of SLP(C) No. 26845 of 2017 wherein this Court vide order dated 27-10-2017, while dismissing the SLP, *inter-alia* passed the following order.

“However, learned Senior counsel appearing for the State makes a request that for compliance of the order, time may be granted at least for a period of four months.

As prayed, four months' time is granted to comply the order.”

9. It is stated by the Contempt Petitioners that on 23-02-2018, the Additional Land Acquisition Officer sent a letter stating therein that;

“.... we have taken necessary steps and sought approval from the concerned authority for payment of compensation by way of direct purchase policy as laid down in G.O. No. 756-LP dated 25-02-2016 and it is learnt from your letter that Sumohan Chatterjee died on 28-10-2017, therefore you are requested to submit the succession certificate by 26-10-2018. In respect of the legal heirs of Late Sumohan Chatterjee for taking further necessary action regarding the payment of compensation. ”

10. In the instant Contempt Petition, it is stated by the Contempt Petitioners that there is no question of applying any purchase policy of the state Government in the instant case as the direction

of the Hon'ble Division Bench is to acquire and complete the acquisition by making an award and to make payment of compensation.

11. This Hon. Court vide its order dated 11-05-2018 issued notice returnable in four weeks in the instant contempt petition. Thereafter, matter came up on 02-07-2018, when this Court's inter-alia passed the following order.

“.....Learned Senior counsel appearing for alleged contemnor has submitted that the Additional Land Acquisition Officer has issued a letter dated 23-2-2018 addressed to the learned Advocate of the petitioners indicating therein that they have taken approval from the concerned authority for payment of compensation by way of direct purchase policy and the method of calculating the compensation amount and paying the same. Mr. Ajit Kumar Sinha, learned Senior counsel appearing for the petitioners, on the other hand, submits that he is not willing for that. However, learned Senior counsel has made a calculation sheet of compensation which was handed over to the learned Senior counsel appearing for the State in the Court today. As prayed by the learned Senior counsel appearing for the respondents, two weeks' time is granted to file comprehensive affidavit in the matter. List the matter after two weeks.”

12. Thereafter, matter again came up on 20-07-2018, when this Court inter-alia passed the following order.

“.....learned counsel appearing for the State has handed over the demand draft of Rs. 7,82,77,387/- (Rupees Seven Crore Eighty Two Lakh Seventy Seven Thousand Three Hundred and Eighty Seven only) in favour of Registrar, Supreme Court of India payable at New Delhi.

Let this amount be kept in an interest bearing short term fixed deposit of a Nationalised Bank.

List this matter after four weeks.”

13.Today, we have heard learned senior counsel for the parties at length and perused the material placed before us.

14.Mr. Anand Grover, learned senior counsel appearing for the State vehemently contended and submitted that the land has already been acquired once and compensation is paid. Second time compensation is contrary to public interest. Apart from that, he contends that the State has filed a second appeal before the High Court of Calcutta contending therein that the land has been acquired and compensation is paid. The second appeal is still pending. Without adjudicating the second appeal, the money cannot be paid to the petitioners.

15.On the other hand, Mr. Jaideep Gupta, learned senior counsel appearing on behalf of the contempt petitioners submits that the other party i.e. Kolkata Metropolitan Development Authority (hereinafter referred to as KMDA) has challenged the order passed

by the Additional District Judge subsequently in second appeal and thereafter, filed a special leave petition, which was withdrawn by them. State is also party to the said litigation. Now they cannot take such a plea in the contempt proceedings.

16. Apart from that, it is submitted that the learned Single Judge in the Writ Petition as well as the Division Bench subsequently given categorical finding that no acquisition has taken place. It is also a matter of fact that subsequently after dismissal of the present special leave petition, even the contempt proceedings are going on. So far, State has not passed any Award in accordance with the directions given by the High Court.

17. Hence, we direct the State Government to pass an Award in accordance with law, as per the directions of the High Court, within a period of four weeks' from the date of receipt of copy of this order and thereafter, the compensation should be paid in accordance with the said Award, subject to procedure and law.

18. Taking into consideration the facts and circumstances of the case and basing on the dismissal of the special leave petition, learned senior counsel for the respondent – State made a request that this order should not prejudice its rights in the second appeal.

19. We request the High Court that if any second appeal is pending, that may be considered on its own merits, in accordance with law.

20. The contempt petition is, accordingly, disposed of.

.....J.

(N.V. RAMANA)

.....J.

(MOHAN M. SHANTANAGOUDAR)

New Delhi,
November 13, 2018