

(2006) 08 DEL CK 0262

In the Delhi High Court

Case No : Writ Petition (C) No. 5463 of 1999

Deep Jot Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 02-08-2006

Acts Referred:

Citation : (2006) 131 DLT 469 : (2006) 92 DRJ 735 : (2007) 2 ILR Delhi 220

Hon'ble Judges : Mukul Mudgal, J;Dr. S. Muralidhar, J

Bench : Division Bench

Advocate : Non, for the Appellant; Sanjay Poddar, for the Respondent

Final Decision : Disposed Off

Judgement

S. Muralidhar, J.—This writ petition was filed by the petitioner in 1999 after his efforts at recovering the compensation for the acquisition by the respondents of land belonging to him failed. It is only through the intervention and orders of this Court that ultimately the amount determined to be payable by the award was paid to the petitioner. The award was dated 10.9.1997 and the final payment was made, after a number of hearings, only on 16.2.2005. As regards the payment of interest on the period of delay, this Court by the judgment dated 5.5.2005 gave liberty to the petitioner to raise this issue along with the issue concerning grant of enhanced compensation before the Civil Court. Further in the judgment dated 5.5.2005, while disposing of the writ petition, this Court issued the following directions:

In view of our above discussion we dispose of this writ petition while granting liberty to the Petitioner to raise all these issues before the Court of competent jurisdiction. We further direct that the Respondents shall pay costs of the present petition of Rs. 10,000/- as they have compelled the petitioner to come to this Court even for the payment of admitted amount which has been paid on different dates for no fault of the Petitioner.

We are of the considered opinion that the liability of costs should not be imposed

ultimately upon an income tax payer and should not be permitted to be paid by the public exchequer. The costs at the first instance would be paid by the Respondents and then shall be recovered from the salary of the officers/officials responsible for this undue delay. The recovery shall be made in accordance with law and after granting them an opportunity within 3 months from the date the certified copy of this order is brought to the notice of the concerned authorities. The compliance report shall be submitted to the Registrar of this Court within one week from the expiry of the stipulated period of 3 months.

2. At the hearing of the matter on 8.5.2006, this Court was informed that the compliance report in terms of the above directions had not yet been filed in the court. This Court accordingly directed that the concerned officers should remain present in the court when the matter was listed next on 11.5.2006. Thereafter on 11.5.2006, a short adjournment was sought for filing an affidavit which ultimately appears to have been filed on 22.5.2006.

3. As an Explanation for the failure to comply with the directions contained in the judgment dated 5.5.2005, it has been stated in para 4 of the said affidavit dated 22.5.2006 as under:

Without prejudice to the contentions made herein it is submitted that the certified copy of the order was received on 22.8.2005 along with the memo of the bills of the learned Government Counsel. It is submitted that the file was processed for payment of the bill and the copy of the judgment was sent in the said file. However, on receipt of the communication from the petitioner, the file was again processed for payments of cost to the petitioner vide note dated 22.12.2005. Since there was delay in processing the file, an Explanation was called for. During this time it transpired that the relevant file is not traceable, the officials dealing with the files were either transferred or retired. This cause delay in processing the file. However, the file was again processed and after obtaining the approval of the Chief Secretary on 23.3.2006. It is submitted that by the time the file was received by the deponent, the financial year changed and fresh approval in view of the fresh budget was required and after obtaining the requisite approval from the concerned authorities, the payment was made to the petitioner and the recovery was affected from the said four officials and is being applied from the fifth.

4. We are now informed that the directions have now been complied with and Therefore, nothing remains to be done in the matter. Although the directions of this Court appear to have been complied with, we think it necessary to make a few observations since we are not wholly satisfied with the Explanation given by the respondents.

5. It is a matter of concern that in the first place, the certified copy of order dated 5.5.2005 was received by the Land Acquisition Collector (West) only on 22.8.2005 well beyond three months, the period within which the respondents were to take action and submit a compliance report. Even thereafter, the

authorities did not display any sense of urgency and kept processing the file as late as 22.12.2005. Thereafter, the file itself was not traceable. Ultimately, after the file was retraced, the approval of Chief Secretary was received on 22.3.2006. Thus, for for more than 10 months since the passing of the judgment of this Court on 5.5.2005, there was no attempt to implement the judgment of this Court. This by itself reflects a sorry state of affairs. Worse still, since the financial year changed by the time the Chief Secretary's approval was obtained it was decided that a fresh approval was required. This delayed the implementation even further. The authorities were stirred into action only after this Court passed the order on 8.5.2006 directing the concerned officers to remain in the Court.

6. The phenomenon of a lackadaisical approach to the implementation of the orders of this Court, if not checked, can undermine the efficacy of the judicial system. It hardly should require the Court to time and again remind administration that this Court's orders are required to be acted upon promptly and in any event within the time stipulated for carrying out of the directions. For some reason, if the authorities are not able to comply with the directions within the time stipulated, they should, even before the time expires, filed an application in the Court seeking an extension of time by furnishing valid reasons for such a request. The presumption on the part of the authorities that the Court's orders need not be complied with within the stipulated time ought not to be countenanced by the Court since that impinges on the sanctity of binding judicial orders which form the very basis of the rule of law.

7. In the instant case, the Explanation of further delay can, at best, be construed as bureaucratic and attributable to the abject inefficiency of the administrative machinery. It does not constitute either a reasonable or a valid Explanation for the delay. Nevertheless, since the respondents have expressed their sincere regret and assured that the non-compliance with the orders of this Court was neither willful nor intentional, we refrain from imposing any costs.

8. We are of the view that the administration should evolve a time-bound procedure for acting upon the judgments and orders of the Court. With a view to avoiding any delay in the implementation of the Court's orders and judgments, a procedure, which would include the following steps, should be evolved and systematized:

a) There should be prompt communication, and in any case not later than a week of all the orders or judgments of the court by the government counsel. The government counsel should send an ordinary copy of judgment to the concerned department of the government with his/her covering letter, without waiting for the certified copy to be made available.

b) Since the copy of the judgment would be sent by the government counsel with a covering letter, the government need not wait for the certified copy to begin processing the file for implementation of the order of the Court or for taking a decision to pursue the matter further by way of an appeal, if any.

c) In the meanwhile the government counsel should apply for the certified copy of the order or judgment within a period not later than a week from the date of such order or judgment, and upon receipt of the same promptly transmit it to the concerned department without any delay.

d) The implementation of the judgment or order of the Court should not be permitted to get delayed for any reason like the payment of the bills of the government counsel etc.

e) If there is any direction in the judgment or order regarding payment of costs, the same should be complied with forthwith and here again the processing of the file need not await the receipt of the certified copy of the order. The ultimate payment may be made once the certified copy is available and efforts should be made to have the certified copy obtained expeditiously.

f) If for any reason, the judgment or order of the Court is not able to be complied with within the time stipulated in the order, the government counsel should be informed and he/she should, even before expiry of the stipulated time, apply to the Court for extension of time for compliance with the order of the court. This application should contain cogent and valid reasons why such extension is being sought.

g) The above procedure should be crystallized in the form of a circular/ instructions and dispatched to all government departments and government counsel so that there is no delay in taking action on the judgments and orders of the Court.

9. The matter will now be treated as closed and the file consigned to the record room. A copy of this order may be sent to the Chief Secretary, Government of NCT of Delhi for information and compliance.