

(2014) 07 TP CK 0025

In the Tripura High Court

Case No : Cont. Cas (C) Nos. 14 of 2012 and 04 of 2014

Manik Lal Modak Bhowmik Vs Sambhu Nama

Date of Decision : 01-07-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 30

Citation : (2015) 1 GLD 35 : (2014) 3 GLT 477

Hon'ble Judges : Deepak Gupta, C.J.; S. Talapatra, J

Bench : Division Bench

Advocate : D.K. Biswas, A. Nandi and G.K. Nama, Advocate for the Appellant;
D. Chakraborty, Sr. Advocate and N.C. Pal, Advocate for the Respondent

Judgement

Deepak Gupta, C.J.—The petitioners by means of these petitions have alleged that the respondents/contemnors have willfully flouted and disobeyed the directions of this Court embodied in the order, dated 7th October 2013, passed in Writ Appeal 38 of 2012 wherein the following directions were given:

"[19]. We, therefore, dismiss the writ appeal but leave it open to the State to either apply for reference under Section 30 of the Act or to file a suit to establish its right, title and interest. The State may, if it moves under Section 30 of the Act, request the Collector to deposit the amount in the Court or if it decides to file a civil suit it may apply for interim directions. The respondents shall be entitled to contest this application on all grounds. However, in case the State does not obtain such orders on or before 30th November, 2013 then the Land Acquisition Collector shall positively pay the amount to the person entitled under the award latest by 15th December, 2013."

It is not necessary to give the facts of the case. However, this Court had felt that since the State has raised an arguable dispute that it might be the owner of the property, the State was permitted to take action either by filing a petition under Section 30 of the Land Acquisition Act, 1894, hereinafter referred to as "the Act" or by filing a civil suit. This Court had in no uncertain terms stated that while applying for interim directions the State must ensure that the interim orders are obtained on or before 30th November, 2013 and in case, such interim directions

are not obtained then the amount shall be paid to the persons entitled to under the award passed by the Land Acquisition Judge latest by 15th December, 2013.

2. Admittedly, the amount was not deposited by 30th November or even by 15th December, 2013 and it has also not been paid to the persons entitled to the amount in terms of the award of the land acquisition proceedings. In fact the record reveals that the amount was tendered only on 3rd February, 2014 in the office of the Land Acquisition Judge. No interim orders have been obtained till date.

3. The respondents have filed reply and initially a stand was taken that the respondents understood the order to mean that action could be taken by 30th November and stay order could be obtained later. We are not at all satisfied with the initial response of the contemnors in this regard. Along with the reply filed by the contemnors the opinion of the learned Advocate General to the State of Tripura has been annexed in which he has in unambiguous terms stated that the outer limit is 30th November, 2013 and the suit should be filed by the 1st week of November, 2013 so that a reasonable time is left to obtain an interim order. This opinion of the learned Advocate General was accepted by the Secretary, Revenue and the Secretary, Law. However, later the matter was discussed and instead of filing a suit it was decided to file a petition under Section 30 of the Act. From the noting sheet itself it is absolutely clear that each and every person was aware that the last date for obtaining the interim order was 30th November, 2013. Despite being aware that the last date is 30th November no steps were taken in this regard.

4. Some times government machinery moves slowly and the Court also recognizes this fact. However, if the Court gives certain directions that a certain act has to be done within a particular time, if any authority of the State is unable to perform the act within that time it must move the Court and apply to the Court for extension of time. The officers of the government cannot be permitted to flout the orders of the Court and themselves grant extension of time in this regard. Reference in this regard may be made to the judgment of the Apex Court in T.N. Godavarman Thirumulpad through the Amicus Curiae Vs. Ashok Khot and Another, wherein the Apex Court held as follows:

"Disobedience of this Court's order strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. Hence, it is not only the third pillar but also the central pillar of the democratic State. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the Courts have to be respected and protected at all costs. Otherwise, the very corner stone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society. That is why it is imperative and invariable that Court's orders are to be followed and complied with."

There can be no quarrel with the proposition that the State and its officials are as much bound by the Court orders as any other citizen of the State.

5. Sir Edward Coke in response to the edict of James 1 King of England had responded "king is under no man but under God and the Law". The same applies to the State and its officials also. They are also subservient to law. In case the officials feel that it is not possible to comply with the Court's order within the time granted then they should before the time has expired apply to the Court for extension of time. In exceptional circumstances they may even apply for extension of time after the time is over. However, they cannot be permitted to grant extension of time themselves and take a defence after a contempt petition is filed; that they had misinterpreted the judgment. That amounts to gross contempt of the Court.

6. In the present case, there was the opinion of the learned Advocate General, the Secretary Law to the State of Tripura as well as a learned Sr. Advocate of this Court that interim order(s) must be obtained by 30th November, 2013. Even if such order(s) could not be obtained by 30th November what prevented the officials from approaching the Court in the original writ petition for grant of extension of time? The Collector has deposited the amount with the Land Acquisition Judge on 3rd February, 2014. We are clearly of the view that this action of the officials amounts to willful disobedience of the order of this Court and they are accordingly held guilty of contempt of Court.

7. Having held them guilty of contempt of Court because in this case an unconditional apology was tendered at the earliest stage we are of the view that the Court can be magnanimous in the matter and we accept the apology but with a warning that in future if these officers are found to be, in any manner, violating the Court's order then very strict action shall be taken. A copy of this judgment be sent to the Chief Secretary of the State for information and necessary action. Now coming to the question as to what should be done with the money which was not deposited in accordance with the order of this Court. As per the directions given earlier the money should have been paid to the parties to whom the amount was awarded. At the same time, we are quite clear that if the State and its officials had approached us for extension of time, in all probability, we would have granted extension of time. Therefore, we direct that in case the persons who are entitled to the amount furnish Bank guarantee or adequate security of similar nature to the satisfaction of the LA Judge within a period of 3 (three) months from today with regard to the repayment of the amount along with interest as per the provisions of the L.A. Act then the amount shall be released to the persons so entitled to the amount. In case a Bank guarantee or similar surety is not given or the person entitled to the amount files an application that he is not willing to give such Bank Guarantee then the amount falling to his share shall be deposited in a fixed deposit for a period of 1 (one) year at the first instance. A direction is also given to the Land Acquisition Judge to ensure that the proceedings are completed latest by 30th June, 2015. The

contempt petitions are disposed of in the aforesaid terms.