
(2008) 07 AP CK 0133
In the Andhra Pradesh High Court
Case No : Contempt Case No. 538 of 2008

P. Narasimhulu

APPELLANT

Vs

B. Siva Reddy, LAO and Others

RESPONDENT

Date of Decision : 04-07-2008

Acts Referred:

Contempt of Courts Act, 1971 — Section 10, 12

Citation : (2008) 6 ALD 825 : (2008) 6 ALT 271

Hon'ble Judges : K.C. Bhanu, J;A. Gopal Reddy, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant; K.V. Simhadri, for the Respondent

Final Decision : Dismissed

Judgement

A. Gopal Reddy, J.—This Contempt Case is filed under Sections 10 and 12 of the Contempt of Courts Act, 1971 for wilful disobedience and violation of orders passed by this Court in LAASMP No. 578 of 2007 in LAAS No. 163 of 2007 dated 15-03-2007.

2. Heard the party in person and also K.V. Simhadri learned Counsel for the respondent?Corporation who filed a calculation memo stating that 50% of the amount as per the decree has been made available to the Land Acquisition Officer (LAO) to enable him to deposit in the Court.

3. It is not in dispute that this Court in LAASMP No. 578 of 2007 granted stay for execution of decree on condition of the petitioner/appellant (LAO) depositing half of the enhanced compensation together with statutory benefits and interest payable thereon within eight weeks from the date of order. On such deposit the respondents/claimants are entitled to withdraw the same without furnishing any security and without any deduction towards income tax.

4. Since the amounts are not deposited within the stipulated time and there is a delay in compliance, LAO filed LAASMP No. 138 of 2008 seeking extension of time till 12-07-2007, the date on which they have deposited the enhanced

compensation amount. In the light of the directions issued earlier in LAASMP No. 578 of 2007, this Court by order dated 14-02-2008 extended the time granted for deposit of the amount till the date of deposit i.e. 12-07-2007.

5. Since the amount deposited would not constitute 50% of the enhanced compensation, petitioner filed E.P. No. 13 of 2007 in O.P. No. 85 of 1995 on the file of the Senior Civil Judge, Madanapalle. The executing court dismissed the E.P. holding that cheque was already given. Questioning the same petitioner filed a revision? C.R.P. No. 5676 of 2007. The learned single judge of this Court dismissed the revision observing: if the dispute is with regard to quantum of compensation, it is for the petitioner to file an application to vacate the said order of the Division Bench passed in LAASMP No. 578 of 2007 as extended in LAASMP No. 138 of 2008, but I am of the opinion that CRP filed by the petitioner is misconceived and not maintainable.

6. On dismissal of the revision, petitioner filed the above contempt case along with an application to implead the requisition department-A.P. Industrial Infrastructure Corporation Ltd. as party to the contempt proceedings obviously by referring the judgment of this Court in C.C. No. 1332 of 2003 dated 26-02-2004.

7. It is pertinent to note that respondents 2 and 3 are not parties to the land acquisition proceedings either in the O.P. or in the appeal, which was filed by the LAO, where interim orders were passed, as referred to above.

8. Learned single Judge referred to the judgment of this Court in *Khaton Bee v. B. Venkataiah*, Special Deputy Collector (C.C. No. 1050 of 1995) while dismissing C.C. No. 1332 of 2003. The facts in the referred judgment are as under:

9. Learned single Judge of this Court disposed of C.C. No. 1050 of 1995 directing the Deputy Director of Survey Settlement and Land Records to comply with the request of the 3rd respondent, viz., Special Deputy Collector, Land Acquisition (General), Nampally, Hyderabad made on 09-08-1995 for attestation of the subdivision records to enable the acquisition of the land. Upon receipt of the said attestation of the plan by the 4th respondent-Deputy Director of Survey Settlement and Land Records, LAO shall initiate land acquisition proceedings and complete the whole process including the payment of compensation within the specified period of three months. Aggrieved by the order passed in the said contempt case, LPA No. 187 of 2002 was filed which was disposed of by a Division Bench of this Court on 10-02-2003 with a direction that Special Deputy Collector, Land Acquisition shall initiate action without reference to the attestation by the survey authorities. The entire exercise shall be completed within three months. Since the said order has not been complied with C.C. No. 1276 of 2003 came to be filed only against Special Deputy Collector, Land Acquisition (General), Hyderabad complaining disobedience of the order passed in L.P.A. No. 187 of 2002 dated 10-02-2003, in which LAO filed a counter stating that steps were taken and Divisional Engineer (Electrical), Yousufguda,

Hyderabad was addressed a letter to provide funds so as to enable him to proceed further in making the award and the matter is still pending with the Electricity Department which is the requisitioning authority and unless funds are made available it is not possible for him to complete the land acquisition proceedings. In view of the above stand taken, this Court felt that there is no wilful disobedience or disregard to the orders passed in LPA 187 of 2002 by the LAO. May be taking clue from the counter-affidavit it is a case of taking action against respondent Nos. 1 and 2 in the writ petition viz., Superintending Engineer, A.P.State Electricity Board and Divisional Engineer, Electrical, EHT Lines & Sub-station, Erragadda, Yousufguda, Hyderabad. Leaving the remedy open to the petitioner, notice issued to the LAO is discharged and closed the contempt case.

10. The learned single judge while referring a Division Bench judgment of this Court in Bolla Babu Prasad v. Government of Andhra Pradesh ((2002) 3 An .L.J. 40) observed that though a passing observation was made, the ultimate direction was given to the Agency, for whose benefit the land was acquired to make the necessary funds available to the Land Acquisition Officer and the latter, in turn was directed to take further steps. After observing so dismissed the contempt case holding that it cannot be said that the respondents are guilty of deliberate and wilful contempt of the orders passed by this Court, leaving it open to the petitioners to work out their remedies in accordance with law.

11. No proposition of law has been laid down by the learned single Judge in the contempt case unless requisition department is impleaded, which is not a party to the reference or to the appeal, contempt case cannot be entertained.

12. The Supreme Court as early as in 1990 in Hissar Improvment Trust Vs. Smt. Rukmani Devi and another, . held that liability to pay compensation is on the Collector and the right of the land owner, who claims to enforce his rights, if any, is only against the Collector.

13. In view of the same, unless the requisition department is a party to the reference or the appeal and suffered any positive order directing them to deposit the amount, petitioner cannot proceed under the Contempt of Courts Act.

The contempt case is accordingly dismissed granting liberty to the petitioner to file vacate stay petition contending that 50% of the compensation amount is not deposited.