
(2009) 02 AP CK 0076
In the Andhra Pradesh High Court
Case No : C.C. No. 1298 of 2007

Ramoju Satyanarayana

APPELLANT

Vs

Smt. Jaya Lakshmi and Others

RESPONDENT

Date of Decision : 12-02-2009

Acts Referred:

Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 — Rule 20
Land Acquisition Act, 1894 — Section 10, 9, 9(3)
Penal Code, 1860 (IPC) — Section 409

Citation : (2010) 3 ALD 72 : (2009) 3 ALT 689

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : K.B. Ramanna Dora, for the Appellant; G.P. for Land Acquisition for Respondent Nos. 1, 3 and 4, D. Ramalinga Swamy and K. Balagopal, for the Respondent

Final Decision : Dismissed

Judgement

Goda Raghuram, J.—Contempt Case is filed alleging violation of the judgment of this Court dated 20-08-2007 in W.P. No. 19643 of 2006.

2. The Writ petition was filed by the petitioner seeking a direction to respondents 1 to 4 to issue notices under Sections 9 and 10 of the Land Acquisition Act, 1894 (for short "the Act") to him and his brother one Brahman to enable them to participate in the award enquiry and to direct respondents 1 to 4 not to disburse the compensation amount to respondents 5 to 9, in respect of agricultural land in Ac.3.67 cents in Sy.No.992/2A Polavaram Village and Mandal, West Godavari District, which was acquired under the provisions of the Act. In the acquisition notification, the name of the petitioner was not reflected though he claimed to be the owner of the lands. He, thereupon, submitted a representation on 04-03-2005 claiming title to land in question and seeking compensation for its acquisition. There being no response to the said representation, the writ petition was filed.

3. In the writ petition, the Special Deputy Collector (Land Acquisition), Indira Sagar, Polavaram Project, Kowur, West Godavari District, filed a counter affidavit admitting to the representation of the petitioner and stating that the claim of the petitioner was under verification and the title to the property would be decided at the time of passing of the award on the basis of the evidence on record. It was also asserted, in the counter affidavit, that notices would be issued to the petitioner to attend award enquiry. In the light of these averments in the counter affidavit of the second respondent, the writ petition was dismissed.

4. The Contempt Case is filed stating that even without passing an award and without permitting him to participate in the award enquiry, the respondents had made payments by issuance of cheques to the non-official respondents.

5. In the counter filed by the second respondent on 03-03-2008, it is stated that he had issued Form-VII notice under Sections 9(3) and 10 of the Act to the petitioner on 30-06-2007 calling upon him to attend the award enquiry on 16-07-2007 and the petitioner attended the award enquiry on 16-07-2007, but failed to produce any documentary evidence to support his claim for compensation and title to the land. In his counter, the second respondent admits to have paid compensation to respondents 5 to 9 in the writ petition even before the disposal of the writ petition and without passing an award. The second respondent also filed an additional affidavit dated 16-09-2008, wherein he admits to have technically committed contempt but in mitigation pleads that while the petitioner failed to produce any material to substantiate his title to the property or his entitlement to the compensation; curiously states that the Government wanted to proceed with construction of the Polavaram Project in haste, in order to avoid any obstructions by the land owners for non-payment of the compensation and in view of the extraordinary pressure from the Government, by an oversight, he had paid compensation even without passing the award. The second respondent also pleads that in the respect of this conduct, departmental enquiry was initiated against him as also prosecution. He seeks to be pardoned pleading that he has since retired from service, he is a heart patient and has dependants.

6. Initially in this case, except the response by the second respondent, the other respondents had not chosen to resonate. This Court on 17-04-2008 passed an order recording that prima facie payment of compensation for land acquired to persons without an award being passed an extraordinary conduct, particularly, when there were competing claims to compensation by the petitioner and that the conduct of the other respondents including the first respondent, District Collector, in failing to initiate action against the second respondent for such an extraordinary conduct constituted an abdication of fiduciary responsibility by a public servant and called upon the Government Pleader to obtain instructions from Secretary, Revenue Department as to the action taken or proposed to be taken for such extreme conduct of the second respondent.

7. When a serious view was taken by this Court on the conduct of the second

respondent in paying compensation even without passing the award, the first respondent, District Collector, woke up to the situation and filed a counter affidavit on 11-04-2008. The first respondent admitted in his counter that, as per the records, the petitioner was said to have submitted a copy of his representation personally accompanied by registered sale deed dated 11-07-1947 before the second respondent on 05-10-2006. In view of this claim, the second respondent had issued award enquiry notices under Sections 9(3) and 10 of the Act on 30-06-2007 calling upon the petitioner to attend award enquiry on 16-07-2007, which he did and gave a statement that he is the owner of the land and compensation would be paid exclusively to him. The records further disclose that the second respondent had issued notices under Sections 9(3) and 10 of the Act to respondents 5 to 9 as well for the award enquiry. They too attended the enquiry and produced pattadar pass books and title deeds in respect of their claim of title to the land. The first respondent also admitted that the second respondent had paid compensation amount to the non-official respondents even before passing the award and that the answering respondent would interfere with the matter and take immediate action why compensation was paid even without passing award.

8. The District Collector filed an additional counter affidavit on 23-06-2008 stating that the Project Director, DRDA, West Godavari, Eluru, was appointed as an Enquiry Officer on 11 -04-2008 to enquire into the conduct of the second respondent and submit a report. A report has been submitted which disclosed that the second respondent had disbursed compensation to respondents 5 to 9 even prior the orders of this Court in W.P. No. 19643 of 2006 and without any notice to the petitioner; had failed to adhere to the averments in the counter filed in the writ petition in contravention of the appropriate norms of conduct; the Land Acquisition Officer and Special Deputy Collector had passed award much latter on 12-10-2007 but the compensation was paid to respondents 5 to 9 on 20-07-2007, contrary to the provisions of the Act. In this counter, the first respondent states that the State Government has been addressed for initiating disciplinary action against the second respondent and that the Government has initiated disciplinary proceedings against the second respondent under Rule 20 of the A.P. Civil Services (C.C.A.), 1991 and have also framed Articles of charge against him.

9. The first respondent has filed another counter affidavit on 17-09-2008. In this counter affidavit, the first respondent states that the State Government has also addressed the answering respondent to file a criminal compliant against the second respondent for the irregularities committed in the land acquisition process, as proved in the enquiry report of the Joint Collector, West Godavari, vide enquiry report dated 25-08-2008. The first respondent directed the Revenue Divisional Officer, Jangareddygudem, to file a complaint against the second respondent. The Revenue Divisional Officer has filed a complaint before the Station House Officer, Poiavaram, which was registered as Crime No. 67 of 2008 u/s 409 IPC on 27-08-2000 and the matter is under investigation.

10. As the award has since been passed in October, 2007 and the petitioner was found not entitled to the compensation, the petitioner may, if aggrieved by the denial of compensation, pursue appropriate remedies against the award. Insofar as violation of the orders of this Court is concerned, it is factually on record that the second respondent had filed an affidavit before this Court asserting that the award enquiry was still under process even while he had paid compensation without even passing an award, a truly extraordinary conduct even by contemporaneous land acquisition practices of State Revenue Officials. While it is distressing that despite recognition of such unusual conduct by a Land Acquisition Officer, neither the State Government nor the District Collector had initially woken up to the extreme deterioration of public and governance norms in the making payment out of the public exchequer, however on this Court taking a serious view of the matter, the State and the first respondent are seen to have now woken up from their millenary slumber and have initiated disciplinary and criminal proceedings against the second respondent for a gross dereliction of duty, which requires to be investigated and prosecuted, if facts are so found.

11. In the circumstances of the case, since the second respondent, who is seen to have clearly violated the orders of this Court, normally, the second respondent is liable to be convicted for contumacious disregard of the orders of this Court and wanton and willful disobedience thereof. But the second respondent is already in the process of receiving the deserts of law. Departmental proceedings have been initiated against him. A complaint has been lodged and a criminal investigation into his conduct is also under process. While contumacious disregard of the orders of this Court should result in swift and certain retribution so as to ensure that the constitutional process is not stultified, exercise of the disciplinary control to ensure effectuation of this Court's authority should also be tempered with justice and moderation.

12. In the facts and circumstances of this case, this Court is satisfied that no further sanction need to be visited on the second respondent or on the other respondents for contempt.

13. The contempt case is dismissed.