

(1997) 12 AP CK 0084
In the Andhra Pradesh High Court
Case No : CC No. 482 of 1997

Vallem Nagi Reddy

APPELLANT

Vs

S. Krishna, Spl. Dy. Collector, Nellore Dist. and Others

RESPONDENT

Date of Decision : 03-12-1997

Acts Referred:

Business Rules — Rule 53(1), 54
Land Acquisition Act, 1894 — Section 18, 54

Citation : (1998) 2 ALD 209 : (1998) 2 ALT 663 : (1998) CriLJ 3894

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : Mr. R. Ramachandra Reddy, for the Appellant; Government Pleader for LA, for the Respondent

Judgement

1. In W.P.MP.No. 18005 of 1996 in W. P.No. 14710 of 1996 certain orders were passed by me on 25.07,1996 and it is useful to extract the order passed by me :

"It is the case of the petitioner that the Civil Court enhanced the compensation for the lands acquired on a reference made to it u/s 18 of the Land Acquisition Act by an order and decree dated 09-04-1992. Though the respondents have not filed any appeal questioning the enhancement of compensation, they have not paid the compensation due to the petitioner till this date.

If the facts stated are true, the respondents shall pay the entire amount of compensation within three months from the date of receipt of this order.

Notice.

Post the writ petition for orders on 01-11-1996."

2. When the Respondents did not act upon the orders of this court, the present Contempt Application was filed for taking action against the Contemnors for flouting the orders of this Court.

3. By order dated 11-07-1997 my brother Sri Justice K. Siddappa, while

admitting the Contempt Case directed the Contemnors to appear in the court on 28-07-1997. The proceedings sheet shows that I adjourned the case to next day. Thereafter the proceedings sheet does not indicate what happened on that day, but both the Counsel agreed that the matter was adjourned by two months to enable the respondents to comply with the orders. When the matter came up for hearing on 29-09-1997, at the request of the Government Pleader, I adjourned the matter by four more weeks and passed the following order:

"If the compensation is not paid by 30th October, 1997 the contemnors shall appear before the court on 03-11-1997, if the amount is paid he need not appear as directed by this Court."

On 03-11-1997 the learned Government Pleader has taken time to file counter to the next date. On 04-11-1997 acting upon the representation made by the Government Pleader that the matter came to find stages and if some time is given, the amount will be paid to the petitioners, while directing the petitioner to implead the Secretary, Irrigation and C.A.D.(PWD) Department as party-respondent, as a representation was made that the file is pending on his table, I directed the secretary to appear in the Court on 01-12-1997 if the amounts are not paid by 30.11.1997. On 01.12.1997, the secretary appeared in the court in person and made a request to grant some more time to comply with the orders of this court by stating that the file is under circulation. As sufficient time was already given, I directed the Government pleader to give a resume of the facts of the case. From the submissions made by the Government Pleader, the following facts have come to light.

4. After the orders were passed by this court in 25-07-1996 the L.A.O. seemed to have forwarded the proposals to the Special Collector on 24-08-1996. The special Collector sat over the file tight till the Contempt Case is filed and perhaps after receipt of the notice he forwarded the proposals to the Commissioner of Land Revenue duly marking an advance copy to the Secretary on 26-07-1997. Though the Secretary received the advance copy on 01 -08-1997 his office refused to look into the paper as it is only a copy of the proposal and the commissioner for Land Revenue did not forward the proposal with his remarks. Ultimately, the Secretary seemed to have received the remarks of the C.L.R. on 27-08-1997 and the office of the secretary started processing the file, I need not advert to the steps that were taken by the office of the secretary and it is suffice to refer to the Government orders issued in G.O.Rt.No. 796, Irrigation & C.A.D. (Projects Wing TGP.1I) Department, dated 02-12-1997, releasing the amounts payable to the petitioner. But, the amounts are not yet paid. Though the respondents violated the orders of this Court and committed Contempt of Court, I have a feeling that by punishing one or two officers, the Court cannot expect any drastic change in the altitude of the executive unless they are made to take decisions on their own on the basis of material available without resorting to the age-old outdated and unhealthy procedures without any relevancy, purpose and object of these procees ores, In this case the Secretary, without rea. sing the

miseries of the displaced persons in realising the compensation in lieu of the lands belonging to them that were acquired, even after completion of all the legal battles in the Courts bogged down to these procedures that too at a late stage to save himself from contempt proceedings. In the light of the view expressed supra, I am inclined to drop the contempt proceedings than convicting him for flouting the orders of the Court.

5. Having probed the matter in detail, I felt it is my duty to suggest to the Executives for giving up the age-old outdated procedures that are being followed by them without any purpose.

6. It is not in dispute that on a reference u/s 18 of the Land Acquisition Act the Sub-Court, Rajampet, enhanced the compensation payable for the lands belonging to the petitioners that were acquired for Somasila Project way back in the year 1992. Having waited for six long years they filed the present writ petition. As per the directions in W.P.M.P. the Land Acquisition Officer seemed to have sent proposals to the Special Collector seeking release of Rs.23.00 lakhs and odd for effecting payment to the displaced persons on 24-08-1996. But, the Special Collector did not move his little finger in the case till the Contempt Case was admitted and it is only on 26-07-1997 the proposals were sent to the commissioner for Land Revenue while marking a copy to the Secretary. Irrigation Department,

7. When I wanted to know under what provision the Secretary is insisting for the remarks of the Commissioner for Land Revenue, he failed to point out any specific rule to that effect, but what all he says is that it is an age-old practice that is being followed in the Government. To my mind, the Requisitioning Department is the Irrigation Department and though the Revenue Secretary issued orders appointing the revenue staff working under his control to discharge the functions of LAO. yet the land acquisition proceedings ends in a court of law by way of a reference u/s 18 of the Act unless the same is modified by the High Court in an appeal filed u/s 54 of the Act. Thereafter the requisitioning department has to pay the amounts to the displaced persons through L.A.O. In this case, there is no information with regard to the filing of the appeal by the Government and till this date the petitioners did not receive any summons from the High Court with regard to the pendency of the Appeals. In those circumstances only I passed the orders already extracted above in the writ petition. After the orders of mine the actions on the part of the Government officials are only ministerial in nature and they have to verify whether any appeal is pending or not, and if any appeal is pending they should bring it to the notice of the Court or at least inform the petitioners about the pendency of the appeal. If no such appeal is pending they are duty bound to obey the decree of the Civil Court by effecting the payment.

8. At this stage, the Assistant Government Pleader says that he has mentioned A.S.S.R.No.50108/92 in the counter. It is well settled law that the judgment debtor cannot absolve himself of his liability under the decree by throwing some

connected or unconnected papers in the Registry of the High Court without pursuing the matter. It is not known whether this Court is prepared to condone the delay after six years even if such an appeal is filed, as the law is very much settled on the aspect of condonation of delay. At any rate, it is not the case of the respondents that this Court passed any orders restraining them from paying the compensation either before or after my orders.

9. Be that as it may, to perform the ministerial act of effecting payment of the compensation payable to the petitioner, it lies on the primary authority i.e., the Land Acquisition Officer and the head of the Requisitioning Department who has to release the funds. In this case, though the special Collector forwarded the copy of the proposal that was sent to the C.L.R., the Secretary refused to take action on the advance copy as he did not receive the remarks of the Commissioner for Land Revenue. If the authority concerned refuses to take action, there is no need to send any advance copy and no need of incurring additional expenditure on stationery. Be that as it may, I do not know what type of remarks the Commissioner of Land Revenue can offer on the implementation of the Court order. It is purely a matter between the Land Acquisition Officer and the Requisitioning Department. If the Requisitioning Department gets any doubts, it is the duty of the Land Acquisition Officer who maintains the files and who appeared in the Courts on behalf of the requisitioning department, to clarify the position. By insisting that the proposal should come through the Commissioner of Land Revenue, solely on the ground that the proposals were initiated by a Revenue Officer forgetting the fact that he is acting as a Land Acquisition Officer to discharge the statutory functions under the Act, no purpose will be served as the Commissioner is not expected to know of acquisition proceedings or the Court proceedings. It only results in abnormal delays in effecting the payment of compensation to the displaced persons,

10. Next, from the note file maintained by the Secretary it is seen that after receipt of the remarks from the Commissioner, Land Revenue, the file was marked to Secretary (Revenue), Secretary (Law), Principal Secretary (Works and Projects), Minister (Major and Medium Irrigation) and Chief Minister. Perhaps as financial commitment on the part of the Government is there, I can understand in circulating the file to Finance Secretary apart from the concerned Minister and the Chief Minister, Having not understood the purpose and intention of sending the file to Secretary (Revenue) and Secretary (Law), I directed the Secretary to show me the relevant provisions in the Business Rules of the Secretariat. He has shown Rules under Chapter-III of Business Rules of the Secretariat and contends that because the subject "Land Acquisition" is under the control of the Revenue Secretary, he forwarded the file to him. I have gone through the Rule 55 and it suffices to state that for effecting payment of compensation under judgement of a competent Civil Court the matter need not go to Revenue Secretary as he cannot offer any remarks except to raise certain queries whether relevant or irrelevant and delay the compliance of the orders of the Court.

11. For instance, in this case the endorsement made by the Secretary, Revenue is as follows:

"The L.A.O. ought to have sought the G.Ps. opinion regarding grounds for filing appeal. Matter relates to 1992, Time barred. Hence, para 10 for consideration."

12. I am sure, at this stage, the question of obtaining the opinion of the Government Pleader on the grounds of appeal does not arise after half a decade of the judgment of the Civil Court,

13. Likewise, I asked him to show the provision under which he referred the file to the Law Department- He has shown Rule 53 under para 1. It is useful to extract the said Rule.

"(1) All Administrative departments shall consult the Law Department on-

(a) The construction of Statutes. Acts, Regulations and Statutory Rules, orders and Notifications:

(b) any general legal principles arising out of any case; and

(c) the institution or withdrawal of any prosecution at the instance of any administrative department"

14. The Law Secretary who is present in the Court fairly conceded that the matter need not be referred to Law Department as the subject matter would not fall under any of the clauses of clause 53(1) of the Business Rules. The intention in extracting the rule is that under sub-rule (2) every reference to the Law Department shall be accompanied by an accurate statement of the facts of the case and the point or points on which the advice of the Law Department is desired. But, the note file that was circulated to the Law Department neither contained the facts of the case, nor the points on which the opinion of the Law Department is sought for, in this case.

15. This is how the bureaucracy is administering the affairs of the State and as I stated earlier without applying their mind to the facts of each case and taking a decision on their own they are habituated to pass on the responsibility of taking decision to some other agency. With the result the common man, an illiterate man who does not have the capacity to fight the Mighty Government and who is not well versed with the procedural wrangles in which the bureaucracy is indulging is the ultimate victim. Mere proclamation that it is a welfare state will not mitigate the miseries of the common man unless the age-old, out dated and unhealthy practices are given up and unless the decision making authorities start taking decisions on their own by applying their mind without trying to shift the burden or blame on some other agency.

16. In this direction, I feel that the Business Rules of the Secretariat that are being followed since decades need a thorough revision and they should be updated to expedite the decision making process, otherwise there is no safety for the common man at the hands of the Executive which is not prepared to fall in

line with the change of times to translate the constitutional dream a reality.

17. One month time is given for effecting the payment.

18. With the above observations, the contempt case is closed.