

LAWCHAKRA.IN

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONTEMPT PETITION (C) NO. 1278 OF 2023
IN
CIVIL APPEAL NO. 19839 OF 2017

SUDHA BHALLA ALIAS
SUDHA PUNCHI & ORS.

Petitioner(s)

VERSUS

RAKESH KUMAR SINGH & ORS.

Respondent(s)

O R D E R

1. Vide order dated 05th February, 2024, we had directed respondent Nos. 1 to 3 to remain present before this Court on 19th February, 2024 at 10:30 a.m. and answer as to why an action should not be taken against them for having committed contempt of the Court.

2. The aforesaid order was passed in the background that on 11th May, 2023, when the Civil Appeal No. 19839 of 2017 was listed before this Court, a statement made by Mr. Ravindra Kumar,

Signature Not Verified
Digitally signed by
Deepak Singh
Date: 2024.02.24
10:56:50 IST
Reason:

learned senior counsel appearing for the appellants therein that in view of the increase in price, the Ghaziabad Development Authority (for short 'GDA')

may not be in a position to pay the compensation, as directed by the High Court.

3. On the basis of the said statement, this Court had recorded that the GDA was free to release the land as it was not in a position to pay the compensation.

4. After the aforesaid order was passed, an award came to be declared on 30th December, 2023.

5. We had issued the order dated 05th February, 2024, directing personal presence of the contemners since we were, *prima facie*, of the view that passing of the award after making a statement before this Court that the land is not required, was to mislead the Court.

6. We were also of the *prima facie* view that the award was passed on 30th December, 2023 after the contempt notice was issued by this Court on 08th December, 2023.

7. Further, the fact that was noticed by us was that on 08th January, 2024, a statement was made by learned Advocate-on-Record appearing for respondent No.1 that the said respondent had taken steps for releasing the land.

8. Today, when the matter is listed, Mr. Mukul Rohatgi, Mr. Siddharth Luthra and Mr. Ravindra Kumar, learned senior counsel appeared for respondent No.1 and Mr. Tushar Mehta, learned Solicitor General for India has put in appearance for the respondent-State authorities.

9. It is submitted that there had been certain mis-communications with regard to the instructions given by the GDA to the learned counsel.

10. It is projected that the statement dated 08th January, 2024 was made by the learned Advocate-on-Record on the basis of the incorrect instructions issued from the office of the GDA.

11. Mr. Mukul Rohatgi, learned senior counsel submitted that as a matter of fact, by passing an award, the petitioners have been granted relief which was prayed for before the High Court. It is submitted that as per the contention raised before the High Court, the petitioners were interested in getting compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act, 2013') which

came into force w.e.f. 01.01.2014, and the relief sought for has been granted as per the award dated 30th December, 2023.

12. Mr. Mukul Rohatgi, further submitted that initially the GDA was under an erroneous belief that the land was a residential land and as such the compensation was determined to the tune of Rs. 407 crores.

13. It was, however, subsequently realized that the land was not a residential land but was agricultural in nature and, therefore, GDA was in a position to pay the compensation. It was thus contended that the respondents have not violated any order of this Court and hence they deserve to be discharged from the contempt notice.

14. Mr. Mukul Rohatgi, learned senior counsel, also tried to put across a gracious view of the authorities that it is the petitioners who have been benefited. He stated that had the land been acquired in the year 2004, the petitioners would have got compensation as per the old Act. It is only because the compensation is required to be paid as per 2013 Act, they would be getting a

handsome amount.

15. Insofar as the statement made by learned Advocate-on-Record on 8th January, 2024 is concerned, it is quite possible that the said statement may have been made due to the lack of proper communication between respondent No.1 and the learned Advocate-on-Record. Hence learned Advocate-on-Record cannot be faulted for making such statement.

16. However, we find that the statement made by Mr. Ravindra Kumar, learned senior counsel on 11th May, 2023 cannot be on the basis of any miscommunication between the parties. The Record would clearly show that an affidavit was filed by one Shri Raj Kumar Mittal working as Tehsildar, Ghaziabad Development Authority, Ghaziabad (U.P) in Civil Appeal No. 19839 of 2017 on 19th December, 2017, stating therein that the land in question was not really needed.

17. The affidavit further stated that the aforesaid decision was taken by the GDA in its Board meeting and they had unanimously passed a resolution to that effect.

18. The said position would also be fortified by the communication dated 11th July, 2017 addressed by the Additional District Collector (L.A.), Irrigation, Ghaziabad to Special Executive Officer, Ghaziabad Development Authority, requesting him to make available the amount on the basis of calculation sheet. The calculation sheet would show that the compensation payable was assessed to the tune of Rs. 407 crores.

19. The header of the calculation sheet would also show that it is for Indirapuram Residential Scheme.

20. *E-converso*, Mr. Dama Sheshadri Naidu, learned senior counsel, representing the petitioners urged that the award allegedly passed by the authorities on 30th December, 2023 is nothing but an eyewash and is in total disregard to the statement made before this Court. He urged that neither was any notice was given to the petitioners before the issuance of the award nor were the mandatory provisions of the Act of 2013 which came into force w.e.f. 01.01.2014 followed and thus, the award is nothing but a nullity in the eyes of law. He

rather contended that looking to the facts preceding the issuance of the award, it is apparent that the award has been passed in a clandestine manner by antedating the proceedings.

21. Though, *prima facie*, we are not impressed with the submission of Mr. Mukul Rohatgi that this is all a comedy of errors, but since we are only dealing with the contempt petition, in such jurisdiction, the limited enquiry that would be permissible is to find out whether the respondents had deliberately or willfully acted in such a manner which would amount to the disobedience of the orders passed by this Court.

22. Therefore, technically, though respondent No.1 and its authorities cannot be held to have acted in a manner which could be said to be committing contempt of the Court, there appears to be something more in the matter that meets the eye.

23. From 2017, it required a period of almost seven years for the offices of the GDA to wake up from their deep slumber and realize that the land was not a residential land but was an agricultural land.

24. This argument on behalf of the State or its instrumentalities after holding the land of a citizen for a period of 20 years and then taking a plea that the land owners are getting benefited, is something unpalatable.

25. Though, the Right to Property is no more a Fundamental Right, still it is recognized as a Constitutional Right under Article 300A of the Constitution of India. Depriving a citizen of his Constitutional Right to use the land for 20 years and then showing graciousness by paying the compensation and beating drums that the State has been gracious, in our view, is unacceptable.

26. The state is not doing charity by paying compensation to the citizen for acquisition of land.

27. The real question that the competent authorities will have to consider as to whether the land which is required for extension of Indirapuram Residential Scheme in the area of Ghaziabad would be considered as an agricultural land or not.

28. However, since we find that technically there is no contempt in the matter, we leave all these

questions open to be decided by the competent authorities at the appropriate stage.

29. We do not propose to observe anything more than that. As pointed out by Mr. Mukul Rohatgi, learned senior counsel, the petitioners would be entitled to take out proceedings if they are aggrieved by the adequacy of the compensation.

30. We only observe that taking into consideration that the land of the petitioners was under the sword of acquisition for almost two decades and that some part of the delay is also attributable to the Court inasmuch as the proceedings were pending for last so many years, the authorities or the Court, before whom the proceedings post award would be initiated, would take up the matter and decide the same expeditiously.

31. We also clarify that we are not adjudicating on the validity of the award. The petitioners would always be at liberty to raise all permissible challenges to the award and associated proceedings in accordance with law, which would be considered on its own merits.

32. We further direct that if any proceedings are initiated by the petitioners either challenging the award or challenging the adequacy of the compensation, the same shall be decided within a period of six months from the date of the institution.

33. It is further directed that if the GDA or its officers make an attempt to prolong the proceedings, the Court or the authorities would be free to draw an adverse inference and decide the proceedings within the aforesaid period.

34. In view of the above, the contempt petition is disposed of.

35. Pending application(s), if any, stand(s) disposed of.

.....J
(B.R. GAVAI)

.....J
(SANDEEP MEHTA)

New Delhi
February 19, 2024

ITEM NO.57

COURT NO.3

SECTION III-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CONMT.PET.(C) No. 1278/2023 in C.A. No. 19839/2017

SUDHA BHALLA ALIAS SUDHA PUNCHI & ORS. Petitioner(s)

VERSUS

RAKESH KUMAR SINGH & ORS. Respondent(s)

(IA No. 228957/2023 - EXEMPTION FROM FILING O.T.
 IA No. 26718/2024 - EXEMPTION FROM FILING O.T.
 IA No. 25313/2024 - EXEMPTION FROM FILING O.T.
 IA No. 12375/2024 - EXEMPTION FROM FILING O.T.
 IA No. 12374/2024 - MODIFICATION)

Date : 19-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
 HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s)

Mr. Dama Seshadri Naidu, Sr. Adv.
 Mr. Aman Vachher, Adv.
 Mr. Anil Gupta, Adv.
 Mr. Dhiraj, Adv.
 Mr. Ashutosh Dubey, Adv.
 Mrs. Anshu Vachher, Adv.
 Ms. Abhiti Vachher, Adv.
 Mr. Akshat Vachher, Adv.
 Mr. Amit Kumar, Adv.
 Ms. Anisha Mahajan, Adv.
 M/S. Vachher And Agrud, AOR

For Respondent(s)

Mr. Mukul Rohatgi , Sr. Adv.
 Mr. Siddharth Luthra, Sr. Adv.
 Mr. Ravindra Kumar, Sr. Adv.
 Ms. Sakshi Kakkar, AOR
 Ms. Sakshi Singh, Adv.
 Ms. Ranjeeta Rohtagi, Adv.

Mr. Shaurya Sahay , AOR

Mr. Tushar Mehta, ASG , Adv.
 Mr. Shaurya Sahay, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1. The contempt petition is disposed of in terms of the signed order.**
- 2. Pending application(s), if any, stand disposed of.**

**(DEEPAK SINGH)
COURT MASTER (SH)**

**(ANJU KAPOOR)
COURT MASTER (NSH)**

[Signed order is placed on the file]