

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE N. TUKARAMJI

+ WRIT APPEAL No.677 of 2022

% Date: 03.01.2023

Special Collector, AMRP and SLBC, Ramagiri, Nalgonda
And others.

... Appellants

v.

\$ Sri Kinnera Syam
and others.

... Respondents

! Counsel for the appellants : Ms. P.Bhavana Rao,
learned Government Pleader for Land Acquisition

^ Counsel for respondents No.1 to 27: Mr. Srinivasa Rao,
representing Mr. Lokirev Preetam Reddy

Counsel for respondents No.28 and 29: Ms. Keerti Kabra,
Assistant Government Pleader for Irrigation

< GIST:

➤ HEAD NOTE:

? CASES REFERRED:

1. 2004 (2) ALT 546 (LB)
2. (2011) 3 SCC 436
3. 2022 (6) ALT 262 (DB) (TS)
4. (2020) 2 SCC 569

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE N. TUKARAMJI

WRIT APPEAL No.677 of 2022

JUDGMENT: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Ms. P.Bhavana Rao, learned Government Pleader for Land Acquisition appearing for the appellants and Mr. Srinivasa Rao, learned counsel representing Mr. Lokirev Preetham Reddy, learned counsel for respondents No.1 to 27. We have also heard Ms. Keerti Kabra, learned Assistant Government Pleader for Irrigation representing respondents No.28 and 29.

2. This writ appeal is directed against the order dated 10.03.2022 passed by the learned Single Judge allowing W.P.No.10426 of 2016 filed by respondents No.1 to 27 as the writ petitioners.

3. Respondents No.1 to 27 had filed the related writ petition seeking a direction to the official respondents (appellants herein) to pay compensation for acquisition of their assigned lands at par with patta-holders as

determined vide the award dated 17.07.1998 passed by the Special Deputy Collector in Award No.10/98-99 as enhanced vide the order dated 01.03.2006 passed by the learned Principal District Judge, Nalgonda, in O.P.No.991 of 2000 and further enhanced by this Court in L.A.A.S.No.1030 of 2007 vide the judgment and order dated 12.08.2008.

4. From the materials on record, it is seen that respondents No.1 to 27 were assigned government land. But their assigned lands were resumed by the government for the purpose of submergence under Udaya Samudram Tank, Panagal Village, Nalgonda District, vide notification dated 30.01.1998. Following land acquisition proceedings under the Land Acquisition Act, 1894, declaration was made on 02.02.1998. Ultimately, award was passed by the Special Deputy Collector on 17.07.1998 vide Award No.10/98-99 awarding Rs.31,500.00 per acre to the patta-holders. Insofar assignees like respondents No.1 to 27 were concerned, they were paid lump sum *ex gratia*

amount for the acquired lands at the rate of Rs.31,500.00 per acre plus solatium.

4.1. Patta-holders had approached the civil Court i.e., Principal District Judge, Nalgonda, in O.P.No.991 of 2000 for enhancement of compensation. By the order dated 01.03.2006 passed by the learned Principal District Judge the compensation was enhanced from Rs.31,500.00 to Rs.47,250.00 per acre.

4.2. The patta-holders thereafter approached this Court in L.A.A.S.No.1030 of 2007 for further enhancement of compensation. By the order dated 12.08.2008, this Court was pleased to enhance the compensation to Rs.1,10,000.00 per acre.

4.3. Respondents No.1 to 27 submitted a representation dated 01.03.2011 addressed to the appellants for enhancing their compensation at par with the patta-holders. This was followed by subsequent representations dated 24.08.2011 and 28.11.2015. Since no steps were

taken by the official respondents (appellants herein) the related writ petition came to be filed.

4.4. Appellants had filed counter affidavit opposing the prayer made by respondents No.1 to 27. Amongst other objections raised, it was contended that writ petitioners had not filed any application for enhancement. That apart, the writ petition was filed about eleven years after the award was passed. Therefore, the writ petition was hit by delay and laches.

4.5. Before the learned Single Judge it was argued by learned Government Pleader that the writ petition should be dismissed on the ground of delay and laches as the writ petitioners did not approach the authorities seeking enhancement of compensation within the time stipulated in the Land Acquisition Act, 1894. Therefore, the writ petition was liable to be dismissed on the ground of delay and laches.

4.6. Learned Single Judge referred to a Larger Bench decision of this Court in **Land Acquisition Officer-cum-**

Revenue Divisional Officer v. Mekala Pandu¹ and held that an assignee whose land is acquired by the State stands on the same footing as that of a patta-holder whose land has been acquired by the State. Denial of equal compensation to the assignees would be discriminatory. On facts, it was held that there was no delay and laches on the part of the writ petitioners. Consequently, the writ petition was allowed vide the order dated 10.03.2022 by directing the official respondents (appellants herein) to pay compensation to the writ petitioners (respondents No.1 to 27 herein) whose lands have been acquired by the State in terms of the decision of this Court in **Mekala Pandu** (supra).

5. Ms. P.Bhavana Rao, learned Government Pleader for Land Acquisition submits that since the point of law as to entitlement of assignees for compensation on account of acquisition of their land at par with patta-holders has been settled by this Court in **Mekala Pandu** (supra), the State would not press this point in appeal. Nonetheless, she

¹ 2004 (2) ALT 546 (LB)

submits that there was inordinate delay on the part of the writ petitioners in approaching the Court. Award was passed on 17.07.1998, whereas the enhancement order was passed by the civil Court on 01.03.2006. Thus, there was delay of about ten years in approaching the Court. Respondents No.1 to 27 slept over their rights and therefore they would not be entitled to the benefit of enhanced compensation for the delayed approach. To support her contention, learned Government Pleader has placed reliance on a decision of the Supreme Court in **State of Orissa v. Mamata Mohanty**² to contend that a litigant cannot wake up from deep slumber and claim impetus from a judgment in cases where some diligent person had approached the Court within a reasonable time.

6. On the other hand, learned counsel for respondents No.1 to 27 submits that as a matter of fact, there was no delay or laches on the part of the said respondents. They had submitted a representation before the appellants on

² (2011) 3 SCC 436

01.03.2011 followed by reminders dated 24.08.2011 and 28.11.2015. After waiting for a reasonable period when there was no positive response from the appellants, respondents No.1 to 27 were compelled to file the writ petition. Learned Single Judge had examined the entire record and thereafter had rejected the objection raised by the appellants as to delay and laches. Learned counsel also referred to a decision of this Court in **Special Deputy Collector and Land Acquisition Officer, Ranga Reddy District v. B.Narayan Swamy**³ and submits that legitimate claim of respondents No.1 to 27 cannot be denied or defeated by the appellants on the specious ground of delay and laches. He, therefore, seeks dismissal of the writ appeal.

7. Submissions made by learned counsel for the parties have received the due consideration of the Court.

8. Facts are not in dispute. However, for a proper perspective it is necessary to briefly narrate the relevant facts.

³ 2022 (6) ALT 262 (DB) (TS)

9. Respondents No.1 to 27 are assignees of government land. Their lands were resumed along with other patta lands by the State for the purpose of submergence under the Udaya Samudram Tank in Panagal Village, Nalgonda District, vide Notification dated 30.01.1998 under the provisions of the Land Acquisition Act, 1894. Ultimately, award was passed by the Special Deputy Collector on 17.07.1998 awarding compensation of Rs.31,500.00 per acre to patta-holders. Insofar assignees like the writ petitioners are concerned, they were paid lump sum *ex gratia* amount at the rate of Rs.31,500.00 per acre plus 30% solatium.

10. We may point out at this stage that respondents No.1 to 27 could not have had any substantive grievance at the stage of passing of the award because compensation awarded to them as well as to the patta-holders was more or less the same. We may further mention that the decision in **Mekala Pandu** (supra) came later i.e., in the year 2004. Challenge to the said judgment by the State before the Supreme Court was rejected. In the meanwhile,

patta-holders who were recipients of compensation as per award dated 17.07.1998 sought for enhancement of the award and filed O.P.No.991 of 2000 before the learned Principal District Judge, Nalgonda. By the order dated 01.03.2006, the compensation awarded to them was enhanced from Rs.31,500.00 to Rs.47,250.00 per acre. Patta-holders sought for further enhancement before this Court in L.A.A.S.No.1030 of 2007. This Court vide the order dated 12.08.2008 enhanced the compensation to Rs.1,10,000.00 per acre.

11. It is true that respondents No.1 to 27 did not seek for enhancement before the civil Court and thereafter before this Court as was done by the patta-holders. Nonetheless, after the order dated 12.08.2008 was passed by this Court they had submitted a representation dated 01.03.2011 before the appellants seeking compensation for acquisition of their land at par with the patta-holders. This was followed by two other representations dated 24.08.2011 and 28.11.2015.

12. Learned Single Judge noted that against the order passed by this Court dated 12.08.2008 in L.A.A.S.No.1030 of 2007 State had filed SLP before the Supreme Court questioning enhancement of compensation at the rate of Rs.1,10,000.00 per acre. The said SLP was converted into Civil Appeal No.6519 of 2009. However, the said civil appeal was dismissed by the Supreme Court on 15.05.2009. Learned Single Judge noted that the enhanced compensation as directed by this Court was deposited by the State on 28.06.2011. It was in that factual background and the continuing claim of respondents No.1 to 27 that learned Single Judge held that the claim of respondents No.1 to 27 cannot be said to be hit by delay and laches.

13. We concur with the views expressed by the learned Single Judge. Learned Single Judge had duly examined the record and thereafter recorded a finding that there was no such delay or laches to non-suit respondent Nos.1 to 27. Such finding of the learned Single Judge is just, fair and judicious.

14. That apart, right to property, though no longer a fundamental right, is however a precious right of a citizen. Compulsory acquisition of property by the State without payment of due compensation as per law would give rise to a continuing cause of action for the aggrieved citizen to seek redressal before the Court of law. This position has been clarified by the Supreme Court in **Vidya Devi v. State of Himachal Pradesh**⁴ wherein it was held as follows:

12.9. In a democratic polity governed by the rule of law, the State could not have deprived a citizen of their property without the sanction of law. Reliance is placed on the judgment of this Court in *Tukaram Kana Joshi v. MIDC* [*Tukaram Kana Joshi v. MIDC*, (2013) 1 SCC 353 : (2013) 1 SCC (Civ) 491] wherein it was held that the State must comply with the procedure for acquisition, requisition, or any other permissible statutory mode. The State being a welfare State governed by the rule of law cannot arrogate to itself a status beyond what is provided by the Constitution.

...

12.12. The contention advanced by the State of delay and laches of the appellant in moving the Court is also liable to be rejected. Delay and laches cannot be raised in a case of a continuing cause of action, or if the circumstances shock the judicial conscience of the

⁴ (2020) 2 SCC 569

Court. Condonation of delay is a matter of judicial discretion, which must be exercised judiciously and reasonably in the facts and circumstances of a case. It will depend upon the breach of fundamental rights, and the remedy claimed, and when and how the delay arose. There is no period of limitation prescribed for the courts to exercise their constitutional jurisdiction to do substantial justice.

15. There is one more aspect which we would like to highlight. In **Mekala Pandu** (supra), a Larger Bench of this Court held that assignees of government land are entitled to payment of compensation equivalent to the full market value of the land and other benefits at par with the owners of the land even in cases where the assigned lands were taken possession of by the State in accordance with the terms of the grant.

16. A Division Bench of this Court in **B.Narayan Swamy** (supra) examined the impact of **Mekala Pandu** (supra) on the claim to compensation by assignees. It was noted that interplay of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1997 and the provisions of the Land Acquisition Act, 1894, was examined by the Larger Bench

of this Court in **Mekala Pandu** (supra), whereafter it was held as follows:

15. Interplay of the Act and provisions of the Land Acquisition Act, 1894 was examined by a Larger Bench of seven Judges of this Court in *Land Acquisition Officer v. Mekala Pandu* (2004 (2) ALT 546 (LB)). The question of law, which was considered by the Larger Bench was, as to whether the claimants were entitled to payment of compensation under the provisions of the Land Acquisition Act, 1894 when the assigned lands were resumed by the Government for a public purpose. In paragraph 52 of the said judgment, this Court held that the Act sought to achieve the object of alleviating oppression, redressing bargaining imbalance, cancelling unfair advantages and generally overseeing and ensuring probity and fair dealing. It seeks to reopen transactions between parties having unequal bargaining power resulting in transfer of title from one to another due to force of circumstances and also seeks to reconstitute the parties to their original position. It was held that the various conditions imposed in the patta prohibiting transfers and alienations of assigned lands by the landless poor persons are required to be understood and appreciated in that background; the main object being to declare such alienations void and restore the assigned lands to the assignees. Neither the statutory provisions nor the conditions imposed restricting the alienations were intended to restrict the ownership rights of the assignees. Such restriction cannot be construed as a clog on the right, title and interest of the assignee in the assigned land.

15.1. After due analysis, this Court held that the restriction on the right to alienate the assigned land in no manner operates as a clog depriving the assignee's right, title and interest in the land. The assignee's right over the assigned land is same as that of a full owner. The restriction should be imposed only to protect the ownership rights of the assignee. After holding so, the Larger Bench also posed a question as to whether the clause of 'no compensation' in the patta was an unconstitutional clause?

15.3. Larger Bench observed that the question which fell for consideration was whether the terms of grant or patta enabling the State to resume the assigned lands for a public purpose without paying compensation equivalent to the market value of the land to the assignees were valid in law ? As a corollary, the further question posed was whether such restrictive conditions or covenants suffered from any constitutional infirmity?

15.4. Ultimately after a detailed analysis, the Larger Bench held that 'no compensation' clause, restricting the right of the assignees to claim full compensation in respect of the land resumed equivalent to the market value of the land is unconstitutional; the assignees of government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits at par with the full owners of land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta though such resumption is for a public purpose; and no condition incorporated in patta/deed of

assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.

17. Thus, from a careful analysis of the decisions of this Court in **Mekala Pandu** (supra) and **B.Narayan Swamy** (supra), it is evident that assignees of government land are entitled to payment of compensation equivalent to the full market value of the land and other benefits at par with the full owners of the land even in cases where the assigned lands were taken possession of by the State in accordance with the terms of the grant notwithstanding the fact that such resumption was for a public purpose. Therefore, the legal position is that assignees of government land are entitled to compensation at par with the patta-holders. This legal right of respondents No.1 to 27 was not given due recognition by the appellants all along.

18. Question for consideration is, if the State does not act in conformity with the law, in this case law declared by the Larger Bench of this Court in **Mekala Pandu** (supra), can it raise a plea of delay and laches to deny the just claim for equal compensation by the assignees?

19. In our considered opinion, the answer to such a question has to be in the negative. The State is bound to comply with the law declared by the jurisdictional High Court or by the Supreme Court. Without complying with the law it cannot deprive a citizen from his legitimate dues. Decision in **Mamata Mohanty** (supra) is clearly distinguishable inasmuch as in that case respondent was appointed as lecturer and was granted certain benefit. Subsequently, certain additional benefits were extended to candidates having good academic record. Respondents did not make any representation to avail such benefit, but belatedly approached the High Court. State had objected to the claim of the respondent on the ground that she was not even eligible for appointment. However, brushing aside such objection, the High Court granted relief to the respondent. It was in that context Supreme Court observed that a litigant cannot wake up from deep slumber and claim parity with other diligent litigants.

20. In the present case, the lands of respondents No.1 to 27 were acquired by the State without paying due

compensation to them in terms of the law declared by this Court in **Mekala Pandu** (supra). That being the case, when the State does not comply with the law laid down by the Court, it is not open for it to defeat or deny a legitimate claim to compensation on the ground of delay and laches.

21. In view of the discussions made above, we find no merit in this appeal and the writ appeal is accordingly dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

UJJAL BHUYAN, CJ

N. TUKARAMJI, J

03.01.2023

Note: LR copy to be marked.

B/o.

vs