

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.764 OF 2008

STATE OF A.P.

Appellant(s)

VERSUS

KHATOON BEE (DEAD) BY LRS. & ORS.

Respondent(s)

O R D E R

Heard learned counsel for the parties.

This appeal takes exception to the judgment and order dated 10.02.2003 passed by the Division Bench of the High Court of Judicature for Andhra Pradesh at Hyderabad (now known as "the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh") in Letters Patent Appeal No.187 of 2002. The said Letters Patent Appeal was filed to assail the order passed by the Single Judge of the High Court in Contempt Case No.1050 of 1995.

Briefly stated, the respondent filed Writ Petition before the High Court bearing Writ Petition No.17134 of 1994 seeking direction against the State authorities to acquire the land

admeasuring 0.20 guntas of Yousufguda village of Golconda Mandal, Hyderabad District. That Writ Petition was disposed of in the following terms:

"In the circumstances, after hearing both the counsel even at the stage of admission and as a matter of expediency, I direct the respondents to initiate the land acquisition proceedings relating to this land and after publication of the necessary notifications and conducting award enquiry, the award shall be passed, positively within a period of six months from the date of the receipt of this order.

The writ petition is disposed of accordingly. No costs."

Be it noted that the Writ Petition was disposed of at the stage of admission without any counter affidavit filed by the Department with regard to the factual position stated in the Writ Petition.

As the respondents pursued the matter with the State authorities and the Deputy Director, Survey and Land Records declined to accede to the request of the Sub-Divisional Officer (Land), the respondents filed Contempt Case No.1050 of 1995. That was disposed of by the Single Judge in the following terms:

"In the circumstances, this Contempt Case is disposed of with a direction to the 4th respondent to comply with the request of the 3rd respondent made on 9.8.1995 within a period of two months from the date of receipt of a copy of this order. Upon the receipt of the said attestation of the plan by the 4th Respondent as requisitioned by the 3rd Respondent, the 3rd respondent

shall initiate the land acquisition proceedings and complete the whole process including the payment of compensation thereof within three months from the date of receipt of the said attested plan from the 4th respondent.

The contempt case is accordingly disposed of."

The appellant carried the matter before the Division Bench by way of L.P.A. No.187 of 2002. That has been disposed of by the Division Bench without setting aside the directions issued by the Single Judge in Contempt Case but with observation that if it is found that there is any variation in the extent notified, it will be open for the authorities to take appropriate steps under the Land Acquisition Act. Further, the entire exercise shall be completed by the concerned authorities within three months from the date of receipt of copy of the order.

The grievance, in the present appeal, is that, after the disposal of Letter Patent Appeal, the competent authority, namely, the Deputy Director, Survey and Land Records caused to undertake a survey of the concerned land. In that survey, it has been revealed that as per the validated Town Survey Record, the old survey No.139 in respect of which the respondents had set up claim in the Writ Petition is not co-related to T.S. No.2, wherein the disputed 20 guntas of land was allegedly situated. This survey report is subsequent to

the date of the order passed by the Division Bench which is impugned in this appeal. Neither the Division Bench nor the Single Judge had the advantage of the said report, before issuing the directions as noted in the impugned orders.

In our opinion, Division Bench had rightly noted that any direction issued by the writ court dated 28.11.1994 ought to be construed to mean that acquisition proceedings be initiated, subject to identification of the land referred to in the Writ Petition after a formal survey to be done by the competent authority and only thereafter to notify such land for acquisition. In other words, after a formal land survey by the competent authority if no land, as claimed by the respondents, was available for acquisition, the question of complying with the directions given in Writ Petition vide order dated 28.11.1994 would not arise at all.

As a consequence thereof, the contempt action cannot be taken forward against the State authorities. Notably, the Single Judge of the High Court while disposing the writ petition had no occasion to finally determine the correctness of the claim of the writ petitioner regarding the location or extent of land. Concededly, the writ petition was decided without even a counter affidavit of the concerned Department

on that factual score. Besides, in the original stand of the writ petitioner the land in question was 0.20 guntas, but in Contempt Case direction is given by the Single Judge in respect of 0.25 guntas of land. In our opinion, all these matters will have to be considered by the learned Single Judge afresh after taking notice of the relevant records and affidavits to be produced by the competent authority in the Contempt Case to justify the stand taken by the Deputy Director in his communication dated 25.03.2004, Annexure P-7 which has been brought on record, for the first time, in the present appeal.

Accordingly, we set aside the impugned judgment of the Division Bench as well as that of the Single Judge in Contempt Case and relegate the parties before the learned Single Judge of the High Court for re-consideration of the Contempt Case on its own merits and in accordance with law. All contentions available to both the parties in the Contempt Case are left open.

Needless to observe that both parties will be free to file further affidavits in the Contempt Case which has been restored to the file of the Single Judge in terms of this order.

The Civil Appeal is disposed of in the above terms.

Pending applications, if any, stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(DINESH MAHESHWARI)

New Delhi
July 11, 2019

ITEM NO.102

COURT NO.9

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 764/2008

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Date : 11-07-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Appellant(s)

Mr. P. Venkat Reddy, Adv.
Mr. Prashant Tyagi, Adv.
M/S. Venkat Palwai Law Associates, AOR

For Respondent(s)

Mrs. D. Bharathi Reddy, AOR

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

The Civil Appeal is disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)

[Signed order is placed on the file]