

**Court No. - 5**

**Case :-** CONTEMPT APPLICATION (CIVIL) No. - 2339 of 2017

**Applicant :-** Smt. Manorama Kuchhal And Another

**Opposite Party :-** Brijesh Narain Singh D.M./Collector Nic Dist. Centre And 6 Ors

**Counsel for Applicant :-** Manish Goyal, Priyanka Midha, Ram M. Kaushik, Swati Agrawal Srivastava

**Counsel for Opposite Party :-** S.C., Anuj Srivastava, Kaushalendra Nath Singh, Ramendra Pratap Singh, Ravindra Kumar, Vijay Kumar Dixit

**Hon'ble Saral Srivastava, J.**

1. The applicants have alleged the violation of order dated 19.12.2016 passed by this Court in Writ-C No.24775 of 1990 which was allowed by this Court along with with Writ-C No.21643 of 1990. Relevant extract of the order dated 19.12.2016 is reproduced here-in-below:-

*"25. In the facts and circumstances, we mould relief and allow both these writ petitions in following manner;*

*(i) Acquisition notifications dated 30th November, 1989 and 16th June, 1990 in so far as relate to petitioners' land are hereby quashed, since dispensation of inquiry under Section 5A by invocation of urgency under Section 17 is patently illegal as held in judgement of Supreme Court in **Daya Ram Tyagi and others** (supra).*

*(ii). Respondents shall determine compensation of disputed land at twice market value which would be determined in accordance with provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and pay the same to petitioners within three months from the date of judgment, failing which they shall restore possession of disputed land to petitioners by removing constructions, if any, raised thereon.*

(iii). *Petitioners shall also be entitled to cost which we quantify to Rs.5,00,000/- in each set of writ petition."*

2. This Court on 21.08.2019 passed a detailed order, which is reproduced here-in- below:-

*"Counter affidavit to the supplementary affidavit filed by Noida Authority and counter affidavit to the affidavit of compliance are taken on record.*

*In the affidavit of compliance filed by the Chief Executive Officer, Noida, the stand taken is that part of land of the applicants would be released in their favour and for the remaining part, i.e., land of Khasra No.137-M area 0.2520 hectare, compensation would be determined as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.*

*Sri Shashi Nandan, learned senior counsel appearing on behalf of the applicants submitted that the stand taken in the compliance affidavit is wholly contrary to the directions issued by this Court. In the first place, according to him, the stand taken by the Noida Authority before the Writ Court was that constructions have been raised by it over the entire acquired land for City Bus Terminal and in this regard Rs.117.5 lacs had already been spent. Consequently, it is no more open to NOIDA to change its stand in the contempt proceedings and opt for handing over possession of part of the land while pay compensation for the remaining part. It is pointed out that the relief granted by this Court after quashing the acquisition proceedings was only on account of peculiar facts and circumstances of the case where it found that public money had been spent in constructing City Bus Terminal. Therefore, even after quashing the notification under the Land Acquisition Act, the Writ-Court permitted the respondent to retain the land albeit after payment of compensation at twice the market value to be determined in accordance with*

*the Act, 2013.*

*He further submitted that determination of compensation was required to be done in accordance with the provisions of Act 2013. But the procedure laid down therein has not been followed by the respondents. The Collector constituted a Committee of five members and the said Committee although rightly determined the relevant date for determining the compensation as the date of judgement of this Court i.e., 19.12.2016 but it wrongly proceeded to ascertain the market value treating the land to be agricultural while admittedly on the relevant date i.e., 19.12.2016, Bus Stand was existing over it. He further submitted that all land in the vicinity was also of non-agricultural character. The report of the Committee itself mentions that all sale exemplars were in respect of non-agricultural land.*

*He further submitted that till date there is no award by the Collector as provided under the Act, 2013. He further urged that before determining the compensation, as per the procedure prescribed under the Act 2013, notice is to be issued to the affected party and he is also entitled to an opportunity to lead evidence. It is urged that no such procedure was followed and thus the determination of compensation by the Committee apart from being dehors the provisions of the Act is merely an eye wash to save the respondents from the clutches of the contempt proceedings which are underway.*

*Sri Kaushalendra Nath Singh, learned counsel for the Noida Authority seeks time to file affidavit of the Chief Executive Officer clarifying the above aspects. He shall also specify in the said affidavit whether the land which is proposed to be handed over to the applicants, has been demarcated or not; the extent of constructions over the same; whether the constructions have been removed and if not removed, the time frame within which the same would be removed; and what time, the Authority would take to level the land so as to make it fit for handing over of possession to the*

*applicants. In the affidavit it shall also be explained as to how the procedure followed so far for determining compensation is in consonance with the directions issued by the Writ-Court.*

*List on 6.9.2019"*

3. Thereafter on 27.04.2022, this Court passed the following order:-

**"Order on Civil Misc. Impleadment Application No.9 of 2019.**

*The present impleadment applications has been on behalf of the applicants to implead 'Ms. Ritu Maheshwari, Chief Executive Officer, New Okhla Industrial Development Authority, Administrative Complex, Sector-6, NOIDA, Gautam Budh Nagar' as opposite party no.10 in the contempt application.*

*In view of the averments made in the affidavit filed in support of the impleadment application, the impleadment applications is allowed.*

*Learned counsel for the applicants is permitted to carry out necessary impleadment in the contempt application during the course of the day.*

**Order on Civil Misc. Impleadment Application No.17 of 2021.**

*The present impleadment applications has been on behalf of the applicants to implead 'Sri Suhas Lalinakere Yathiraj, District Magistrate, Gautam Budh Nagar' as opposite party no.11 in the contempt application.*

*In view of the averments made in the affidavit filed in support of the impleadment applications, the impleadment application is allowed.*

*Learned counsel for the applicants is permitted to carry out necessary impleadment in the contempt application during the course of the day.*

**Order on Contempt Application.**

*As prayed, put up tomorrow i.e. on 28.04.2022."*

4. Thereafter, this Court on 28.04.2022 directed the matter to be listed on 04.05.2022 and op. party no.10-Ms. Ritu Maheshwari, Chief Executive Officer, New Okhla Industrial Development Authority (NOIDA), Gautam Budh Nagar was directed to remain present before this Court. But, despite the summoning order passed by this Court on 28.04.2022, opp. party no.10-Ms. Ritu Maheshwari, Chief Executive Officer, New Okhla Industrial Development Authority (NOIDA), Gautam Budh Nagar is not present before this Court when the matter was taken up.

5. On a query being raised by the Court from Sri Ravindra Srivastava, learned counsel for opp. party that which flight CEO, NOIDA had taken for Allahabad, the Court was informed that her flight was at 10:30 a.m. She was supposed to be here at 10:00 a.m., therefore, the Court cannot countenance the conduct of CEO, NOIDA in taking flight after the functioning of the Court starts and expected the Court to wait for her and take up the matter after she reaches the Court. This conduct of CEO is reprehensible and amounts to contempt of Courts, inasmuch as she has been summoned by the Court in a contempt proceeding for non-compliance of an order passed by Writ Court. It is pertinent to note that admittedly, the land of the applicants had been taken over by the NOIDA in the year 1990 without following any procedure as contemplated in law and Writ Court while allowing the writ petition of the applicants has deprecated the conduct of the NOIDA in taking over the possession of the property and changing the nature of the property by raising construction illegally over the property.

6. The order of Writ Court has not been complied with and in such view of the fact, when the Court has passed an order for appearance of CEO NOIDA, she was expected to be present in Court when the functioning of the Court starts at 10:00 a.m. rather she choose to take flight at 10:30 a.m. from Delhi deliberately with an expectation that the Court will take up the matter as per her convenience.

7. Considering the fact that the order of Writ Court has not been complied with despite the fact that the possession of the land of the applicants had been taken over by the NOIDA illegally in the year 1990 without paying even a single penny as compensation, and the applicants despite succeeding in this Court in the writ petition and Special Leave Petition against the judgment of Writ Court having been dismissed, have not been able to reap the benefit of the judgement of the Writ Court, and when the Court has summoned the CEO, NOIDA in contempt proceeding, she did not appear before the Court when the matter was taken up which led her counsel to request the Court not to take up the matter till she reaches the Court as her flight is delayed, this Court finds that such conduct of CEO, NOIDA amounts to deliberate and willful disrespect to the Court, as the Officer of the rank of Chief Executive Officer of a Corporation expected the Court to take up the matter at her mercy, therefore, this Court finds it to be a fit case where non-bailable warrant be issued against the CEO, NOIDA.

8. In such view of the fact, this Court issues non-bailable warrant against opp. party no.10-Ms. Ritu Maheshwari, Chief Executive Officer, New Okhla Industrial Development Authority (NOIDA), Gautam Budh Nagar through the C.J.M.

concerned.

9. Let a copy of this order be communicated to C.J.M. concerned by Registrar (Compliance) within 48 hours.

10. List this case on **13.05.2022**, on which date, opp. party no.10-Ms. Ritu Maheshwari, Chief Executive Officer, New Okhla Industrial Development Authority (NOIDA), Gautam Budh Nagar shall be brought in police custody before this Court.

**Order Date :- 5.5.2022**

NS