SUPREME COURT OF INDIA

T.C. Gupta

Vs.

Hari Om Prakash

C.A.No.9095 of 2013

(P. Sathasivam CJI. and Ranjan Gogoi JJ.)

08.10.2013

JUDGMENT

RANJAN GOGOI, J.

1. Leave granted.

2. By an order dated 31.01.2011 the High Court of Punjab & Haryana has held the appellants guilty of commission of contempt and had adjourned the matter to a subsequent date for hearing on the question of sentence. Aggrieved, this appeal has been filed.

3. The facts, in brief, may be noticed.

> The respondents 1 & 2 had filed a writ petition (C.W.P. No.5104 of 2006) in the High Court of Punjab & Haryana challenging the acquisition of land belonging to them under the provisions of the Land Acquisition Act, 1894 (hereinafter for short "the Act"). By the impugned Notification(s) issued under the Act, over 500 acres of land belonging to different land owners, including respondents-writ petitioners, was sought to be acquired. According to the respondents-writ petitioners, nearly 80% of the acquired area was subsequently released from acquisition. Consequently, the remaining land (which included the land of the respondents-writ petitioners) had ceased to be viable for the purpose for which the impugned acquisition was made, namely, for development of residential and commercial sectors 8-19 at Sonepat. It was the further case of the respondents-writ petitioners before the High Court that the release of the land proposed for acquisition was at the

instance of one Omaxe Housing and Developing Company Ltd. which had arrived at some understandings with the land owners and had executed agreements of sale with such land owners even after publication of the notification under Section 6 of the Act.

4. The writ petition filed by the respondents was resisted by the State by contending, inter-alia, the same to be not maintainable on the ground that the respondents-writ petitioners had not filed their objections under Section 5A of the Act. What happened thereafter is not very relevant save and except that on 17.01.2011 the following order came to be passed by the High Court:

> "Mr. Sehgal seeks time to file additional affidavit on the following points:
>
> 1. In how many cases the land of the landowners who had not filed objections under Section 5-A of the Land Acquisition Act, 1894 was released through the mechanism of collaboration agreements?
>
> 2. What are the norms to grant licence to construct a Plotted Colony/Group Housing Colony?
>
> 3. What are the rules regarding classification of zones i.e. high potential, medium potential and low potential zones, and when those norms were amended?
>
> 4. Whether the policy/rules/norms were relaxed to grant licence to any of the 11 collaborations in this case?
> Adjourned to 19.1.2011."

5. On the date fixed i.e. 19.01.2011, the first appellant filed a duly verified written statement wherein, after setting out the order of the High Court dated 17.01.2011, the appellant had submitted the details of the land owners who had filed their objections under Section 5A of the Act and whose land was released from acquisition. This was in response to the first query made by the High Court in the order dated 17.01.2011. In so far as the second, third and fourth queries are concerned, information was duly furnished by the first appellant. No issue with regard to the said part of the order dated 17.01.2011 having been raised the same may be understood as not requiring any further attention.

6. On consideration of the written statement filed by the first appellant, the High Court took exception to the information placed before it in response to the first

query. What was required to be furnished in response to the said query were the names of such land owners who had not filed their objections under Section 5A of the Act and yet their lands were released from acquisition whereas the information furnished by the first appellant in the written statement dated 19.01.2011 was the reverse. Consequently, notice was issued to both the appellants to show cause as to why contempt proceedings should not be initiated against them for not furnishing the requisite information to the Court. The case was adjourned to 24.01.2011 and then to 28.01.2011.

7. Separate affidavits were filed by both the appellants on 28.01.2011 wherein they had tendered unconditional and unqualified apology for not furnishing the necessary information as required in terms of the order of the High Court dated 17.01.2011. In the affidavit of the first appellant, it was also stated that as many as 483 land owners had not filed their objections under Section 5A of the Act despite which their lands were released and only in 30 instances objections had been filed pursuant to which the lands of such land owners were released from acquisition. All particulars in this regard were also furnished. The first appellant, in the affidavit filed, also sought to explain why the requisite information could not be furnished on the earlier date fixed i.e. 19.01.2011 along with the written statement filed on the said date. In this regard it was contended that though the first appellant was personally present in court on 17.01.2011 he had not fully comprehended the order as pronounced in Court. A copy of the order of the court dated 17.01.2011 was made available to him only at about 6.00 p.m. on 18.01.2011 and the written statement was filed in the next morning i.e. 19.01.2011. It was further stated by the first appellant that, through hindsight, it would have been prudent on his part to seek further time to furnish the information against the first query contained in the order dated 17.01.2011. However, as the first appellant was in a position to furnish all the requisite information in respect of the other queries, the written statement dated 19.01.2011 came to be filed. It was further stated by the first appellant that the lapse on his part was bona fide and unintentional and he did not have the remotest intent to withhold any information from the court.

8. The second appellant who had filed a separate affidavit also owned responsibility for placing inaccurate information before the court though, according to him, he was entrusted with the duty to collect information pertaining to query Nos. 2, 3 and 4 made by the order dated 17.01.2011 whereas the information in respect of query No.1 was to be gathered by another official.

9. The matter was considered on 31.01.2011. The High Court after noticing the terms of the order dated 17.01.2011; the written statement filed by the appellant

No. 1 on 19.01.2011; the order dated 19.01.2011 passed by it and the separate affidavits of the appellants filed on 28.01.2011 reiterated that the first query raised by it was with regard to the particulars of the land owners whose land was released from acquisition though they had not filed their objections under Section 5A of the Act. According to the High Court as the query raised by it was "simple and straight" it is incomprehensible that the appellants, who are senior officers and were personally present in court, could not have understood the question(s) raised. Placing reliance on the correspondence dated 17.01.2011 enclosed as annexure A2 and A3 to the affidavit dated 28.01.2011 filed by the first appellant, the High Court came to the conclusion that from the said correspondence (letters issued to subordinate officers) authored by the first appellant himself it is evident that the first appellant understood the query of the court in clear terms. The projections in the affidavit dated 28.01.2011 were accordingly understood by the High Court to be afterthoughts. In view of the above, coupled with the fact that the first appellant had conducted himself similarly on earlier occasions, the High Court took the view that in the present case wrong information was deliberately furnished to the Court which amounted to an "interference with the due process of law and judicial proceedings." Accordingly, the impugned order came to be passed holding that the appellants had wilfully disobeyed the order of the Court for which they are liable to be punished. Aggrieved by the aforesaid developments and the order passed, the present appeal has been filed.

10. We have heard Shri K.K. Venugopal, learned senior counsel appearing for the appellants and Shri S.S. Shamshery, learned counsel appearing for the respondents.

11. The material facts indicating the unfolding of the relevant events leading to the eventual decision of the High Court has been narrated in seriatim in the preceding paragraphs. The information sought for by the High Court; the response of the appellants and their explanation with regard to the answers provided in the first instance and the reasons which had occasioned the errors therein have all been set out in detail. Notwithstanding the above, the High Court has come to the conclusion that the explanation provided by the appellants is a mere eyewash and wrong information was deliberately furnished and correct information was withheld by the appellants which make them liable in contempt. The basis for the above conclusion reached by the High Court is the contents of annexure A2 and A3 to the affidavit dated 28.01.2011 filed by the first appellant, namely, the email dated 17.01.2011 alongwith attachment sent by the first appellant to his subordinate officials. The relevant part of the aforesaid communication which has been extracted by the High Court in its order dated 31.01.2011 is as follows:

> "The Hon'ble High Court during the hearing today has directed to file an affidavit whether the landowners, in favour of whom, above land has been released and licence has been granted, filed objections under Section 5-A or not. You are, therefore, directed to supply this information in following format in respect of those who had filed objections under Section 5-A……."

12. A reading of the above extract would seem to indicate that on the very day of the order i.e. 17.01.2011 the first appellant understood the said order to be requiring him to lay before the High Court information as to whether the land owners in favour of whom land has been released had filed objections under Section 5A of the Act or not. This is how the first appellant understood the order of the High Court. At that point of time the order of the Court was not available to the first appellant. On such understanding of the order dated 17.01.2011 the first appellant directed the concerned subordinate official to furnish information in the prescribed format in respect of the land owners who had filed their objections under Section 5A of the Act so that the same could be placed before the Court on the date fixed. While it may be correct that the first appellant ought to have sought information not only in respect of land owners who had filed their objections but also as regards the land owners who had not filed their objections, the question that arises is whether the said lapse, by itself, will make the first appellant liable in contempt?

13. The e-mail dated 17.01.2011, extracted above, partially bears out the stand taken by the first appellant that he understood the order of the Court as requiring him to furnish information in respect of land owners who had filed their objections. Admittedly, a copy of the order of the court dated 17.01.2011 became available to the first appellant only at 6.00 p.m. on 18.01.2011. In his affidavit the first appellant had also stated that it would have been better if, on 19.01.2011, he had sought more time to furnish the requisite information against query No.1. However, he did not do so as the information in respect of other queries were available. The circumstances in which the events have unfolded, in our considered view, does not lead to the sole conclusion that there was a deliberate or wilful attempt on the part of the first appellant not to furnish the requisite information or to furnish wrong information to the Court. Rather, it appears probable that the failure to furnish the requisite information to the Court may have been occasioned by a momentary error of judgment on the part of the first appellant. For the said lapse he had tendered his unqualified apology in the affidavit dated 28.01.2011 along with which he had also furnished the requisite information i.e. name and particulars of the land owners who had not filed their objections under Section 5A of the Act. The above situation, in our considered view, called for a broad and

magnanimous view of the matter and the acceptance of the unconditional apology tendered. Such a course of action, according to us, would have better served the dignity and majesty of the institution. In fact, under Section 12(1) of the Contempt of Courts Act read with Explanation thereto an apology ought not to be rejected merely on the ground that it is accompanied by an explanation for the lapse that had occurred.

14. Before parting, we consider it apt to quote hereunder certain observations of this Court in its opinion rendered in the Special Reference No. 1 of 1964[1] (under Article 143(1) of the Constitution) made to this Court in the matter arising out of notice of breach of privilege of the State Legislature issued to two Hon'ble Judges of the Allahabad High Court as, according to us it is in the aforesaid spirit that the contempt jurisdiction ought to be viewed and exercised.

> "142. Before we part with this topic, we would like to refer to one aspect of the question relating to the exercise of power to punish for contempt. So far as the courts are concerned, Judges always keep in mind the warning addressed to them by Lord Atkin in Andre Paul v. Attorney-General of Trinidad, AIR 1936 PC 141. Said Lord Atkin, "Justice is not a cloistered virtue; she must be allowed to suffer the scrutiny and respectful even though out- spoken comments of ordinary men." We ought never to forget that the power to punish for contempt large as it is, must always be exercised cautiously, wisely and with circumspection. Frequent or indiscriminate use of this power in anger or irritation would not help to sustain the dignity or status of the court, but may sometimes affect it adversely. Wise Judges never forget that the best way to sustain the dignity and status of their office is to deserve respect from the public at large by the quality of their judgments, the fearlessness, fairness and objectivity of their approach, and by the restraint, dignity and decorum which they observe in their judicial conduct. ……."

15. That the power to punish for contempt is a rare specie of judicial power which by the very nature calls for exercise with great care and caution had been reiterated by this Court in Perspective Publications (P) Ltd. & Anr. Vs. The State of Maharashtra[2] whereas in In Re: S. Mulgaokar[3], Justice V.R. Krishna Iyer while noticing the principles of the exercise of power of contempt had outlined the first of such principles to be "wise economy of the use of the contempt power by the court". Reiteration of the aforesaid principle has been made in several subsequent pronouncements of this Court, reference to which would not be necessary in view of the unanimity of opinion on the issue that the power to punish for contempt ought to be exercised only where "silence is no longer an option."

16. For the aforesaid reasons we are unable to sustain the conclusion reached by the High Court in its order dated 31.01.2011. We therefore deem it appropriate to set aside the order dated 31.01.2011 passed by the High Court and allow the present appeal.