

SUPREME COURT OF INDIA

S.K.Containers Pvt. Ltd.

Vs.

Susmita Bhattacharya

C.A.No.2318/2014

(Kurian Joseph and R.Banumathi,JJ.,)

28.02.2017

JUDGEMENT

Kurian Joseph,J.,

1. We do not find any contumacious conduct on the part of the respondents/alleged contemnors. The contempt petition is dismissed.
2. Civil Appeal No. 2318/2014 is taken on Board.
3. Heard learned counsel for the parties.
4. One main contention advanced by Mr. Nagendra Rai, learned senior counsel appearing for the appellants, is that Section 6 Notification is not issued within one year of Section 4 Notification and hence the proceedings have lapsed. We find it difficult to appreciate the submission. The learned Single Judge in W.P. No.4644/1988 passed the interim order dated 9.9.1988 for a period of three weeks but with a further direction to post the case on 23.09.1988, well within three weeks. However, the case was posted only on 14.11.1988 when the Court was pleased to continue "subsisting" interim order. In the facts and circumstances explained above, and as rightly held by the Division Bench, the interim order had to be deemed to be existing as on the date of extension. Yet another serious argument is for public purpose. However, it is not in dispute that the acquisition is for educational purposes.
5. We also find that after the Land Acquisition Collector passed the Award, the appellants had in fact filed an application under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as, the Act) for enhancement of compensation. Section 18 (1) of the Act reads as under:-

"18. Reference to Court.- (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection

be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested."

6. Once an application under Section 18 of the Act is filed, the presumption under law is that the owner or the person interested in the land has certain objections with regard to (i) measurement of the land, (ii) amount of compensation, (iii) persons to whom it is payable and (iv) apportionment of the compensation.

7. Admittedly, the appellants have filed an application under Section 18 of the Act and, therefore, it is for them to pursue the said remedy.

8. In that view of the matter, we find no merit in this appeal and the same is, accordingly, dismissed.

9. We make it clear that the disposal of this appeal shall not stand in the way of the appellants pursuing the application for reference.

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

11. There shall be no orders as to costs.