

SUPREME COURT OF INDIA

State of Jharkhand

Vs.

Gopal Prasad Mandal

C.A.No.3990 of 2009

(Indu Malhotra and Sanjiv Khanna,JJ.,)

14.08.2019

JUDGMENT

Sanjiv Khanna,J.,

1. Present appeal by the State of Jharkhand is directed against the order dated 27.08.2008 passed by the High Court of Jharkhand in Contempt Case (Civil) No. 43 of 2008 titled Gopal Prasad Mandal v. The State of Jharkhand and Others, inter alia directing as under:

“Since the land in question is still without a road, we find substance in the plea of the petitioner in this contempt petition. Although the respondents might have constructed the road elsewhere, they were duty bound to construct the road on the land in regard to which the order was passed. Hence, the respondents are directed to comply the order dated 9.5.2007 and inform this Court within a period of one month as to what steps have been taken for construction of the road in pursuance to the order dated 09.5.2007.

The counsel for the respondents raised on objection that the order sought to be complied does not indicate any specific land on which the road had to be constructed. In our view, the order which is sought to be complied in terms of the order of the writ petition and the land on which the road was to be constructed has specifically been indicated. Hence, the Counsel for the Respondents shall explain it to the respondents- authorities regarding the identification of the land on which the road was to be constructed. Thus, the objection raised has no substance and hence it is rejected. Let this matter be listed again on 24th September, 2008.”

2. This Court by order dated 17.11.2008 had issued notice on the Special Leave Petition filed by the State of Jharkhand with a direction to file a counter affidavit and the contempt proceedings before the High Court were stayed until further orders. The matter has remained pending since then.

3. Contempt proceedings arise from Public Interest Writ Petition (C) No. 6956 of 2006 that

were filed before the High Court of Jharkhand with the following prayers:

“(i) Issuance of appropriate order(s) and/or direction(s) upon the respondents to show cause as to why and under what compelling circumstances, the respondents have till date not constructed the approach road connecting village “Koradih” under Circle Sarwan, P.O. Sabejor, P.S. Sarwan, Sub-Division and district Deoghar to the “Deoghar - Madhupur” Main Road which would facilitate and benefit more than 10,000/- villagers of neighbouring more than 15 villages in transportation and movement to the nearest market, main town and district headquarters as well as enable them to avail better medical facility in Sadar Hospital at Deoghar Town and other well equipped private hospitals and for which the respondents have already acquired 13 decimal of land under due process of law vide L.A. Case No. 11/2003 - 04 as far back as in 2004 when construction of said approach road was duly sanctioned.

(ii) For issuance of appropriate order(s) and/or direction(s) upon the respondents to construct and build the said approach road connecting village Koradih to the Deoghar - Madhupur Main Road in right earnest on the stretch of land measuring 13 decimals of plot No.3, J.B. No. 5, Thana No.243 village Koradih under Sarath Block, district Deoghar acquired vide L.A. Case No. 11/2003-04 and duly sanctioned in the year 2004.

(iii) for any other relief(s) as the petitioner may be found entitled in law.” Grievance raised in the Writ Petition was concerning delay in construction of the approach road connecting village Koradih located in Deoghar District with the Deoghar-Madhupur main road, inconveniencing more than 10,000 villagers belonging to over 15 neighbouring villages. It was alleged that private land admeasuring 13 decimals had been acquired in 2004 for constructing the connecting road.

4. The High Court vide order dated 17.04.2007 in this PIL had directed the Deputy Commissioner, Deoghar to file an undertaking giving a time frame for completing the construction of the road. Accordingly, supplementary affidavit dated 09.05.2007 was filed by the Additional Collector, Deoghar on behalf of the Deputy Commissioner, Deoghar wherein he had given an assurance and commitment that the road shall be completed within five or six months after removing encroachment, etc. Thereupon, the writ petition was disposed of vide order dated 09.05.2007 of the High Court directing that the construction of the road in question will be completed within five or six months.

5. The respondent had thereafter initiated contempt proceedings contending that the appellant authorities had not complied with the High Court order dated 09.05.2007 as they had constructed the connecting road on an alternate land, and not on the private land of 13 decimals acquired for this purpose.

6. In response, the appellant authorities had filed an affidavit stating that in light of the aforesaid High Court order, the matter had been considered and an enquiry was made by

the Sub-Divisional Officer, Madhupur at the instance of the then Deputy Commissioner, Deoghar as there was resistance and agitation by some villagers against acquisition of 13 decimals of land. Land owners had refused to accept payment. Accordingly, a proposal had been sent by the Deputy Commissioner to the appropriate authority of the Revenue Department for withdrawal of the emergent acquisition proceedings. To resolve the multiple opposing concerns, the Additional Collector along with the Deputy Commissioner, Deoghar and Circle Officer of Sarwan Block and Circle Officer of Sarath Block had persuaded the villagers that an existing rural path would be converted into a motorable road. Accordingly, within the time frame mentioned in the supplementary affidavit, encroachments made by the inhabitants of the villages were removed, and an alternative approach road admeasuring 700 feet approximately in length was constructed connecting the village Koradih with the Deogarh-Madhupur main road. The road, if constructed on 13 decimals of land would have been about 300 feet in length. The difference in length being about 400 feet would clearly show that the change was marginal and was not inconvenient. In any case, it was acceptable to the villagers.

7. In view of the explanation given by the authorities and also the fact that the road had been constructed, we do not see any good ground and reason for the High Court to have passed the impugned order and directions. The object behind the PIL was to ensure that the connected road is constructed, which has been constructed timely though at a location different to the original in view of the settlement amongst the villagers. We do not think the order dated 09.05.2007 passed in the PIL should be read strictly in a pedantic manner to be construed as a direction that the road had to be constructed at one particular location. Road was to be constructed for the benefit of the villagers for which the authorities had taken steps in view of the grievances of the villagers and an amicable solution after discussion was found and accepted.

8. Though one would agree that in case of doubt, the authorities should have approached the court for clarification and appropriate directions, albeit this failure would not justify contempt of the court proceedings. In fact, there is compliance of the court's directions without the matter getting escalated and the controversy was resolved. Recording the aforesaid, we allow the present appeal and set aside and quash the order dated 27.08.2008 and the contempt proceeding in Contempt Case (Civil) No. 43 of 2008. We clarify that we have not commented on the land acquisition proceedings in respect of the 13 decimals of land.

9. No costs.