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IN THE HIGH COURT OF KARNATAKA,
CIRCUIT BENCH AT GULBARGA

DATED THIS THE 30TH DAY OF NOVEMBER 2009

P R E S E N T

THE HON'BLE MR.JUSTICE D.V.SHYLENDRA KUMAR

A N D

THE HON'BLE MR.JUSTICE K.N.KESHAVANARAYANA

C.C.C.Nos.1347/2009 & 1474-77/2009 (CIVIL)

c/w
C.C.C. Nos.1348/2009 & 1478-80/2009 (CIVIL)

IN C.C.C. NO.1347/2009:

BETWEEN:

1. ANEES SULTANA
W/O AJIMODDIN PATEL
AGE: 38 YEARS
OCC: HOUSE HOLD & AGRICULTURE
R/O SEDOM
TQ: SEDOM, DIST: GULBARGA
2. SYED AJURUDDIN PATEL
AJIMODDIN PATEL, AGE: 22 YEARS
OCC: AGRICULTURE
R/O SEDOM
TQ: SEDOM, DIST: GULBARGA
3. SYED BADIYUDDIN PATEL
AJIMODDIN PATEL, AGE: 21 YEARS
OCC: AGRICULTURE
R/O SEDOM
TQ: SEDOM, DIST: GULBARGA

4. HUSSAIN KHAN
S/O ABDUL RAHIM KHAN
AGE: 42 YEARS, OCC: AGRICULTURE
R/O SEDOM
TQ: SEDOM, DIST: GULBARGA.
5. SYED GULAM MOHINUDDIN
CHISTI, S/O MALLIK JAINALABUDDIN
AGE: 40 YEARS, OCC: AGRICULTURE
R/O SEDOM
TQ: SEDOM, DIST: GULBARGA ... COMPLAINANTS

(BY SRI S S SAJJANSHETTY, ADVOCATE)

AND:

1. MR. R.B. AGWANI
THE STATE OF KARNATAKA
BY ITS PRL. SECRETARY
PWD (C & D), M.S. BUILDING
BANGALORE-1
2. MR. M.M. HIEMATH
THE CHIEF ENGINEER
PWD (C & B), NORTH
DHARWAD DIST: DHARWAD
3. MR. K.SATTYA MURTHI
THE DEPUTY COMMISSIONER
MINI VIDHANA SOUDHA
GULBARGA-585 301
4. MR. CHANDRAMOULI NAIK
THE SUPERINTENDING ENGINEER
PWD, GULBARGA CIRCLE
GULBARGA-585 301
5. MR. SHIVASHARANAPPA GURUGUNTI
THE EXECUTIVE ENGINEER
PWD & AUTHORITY
FOR KARNATAKA HIGHWAY
YADGIR DIVISION
GULBARGA-585 301

6. MR. SHIVALINGAPPA KHASIMPUR
 THE ASSISTANT EXECUTIVE ENGINEER
 PWD, SUB-DIVISION
 SEDOM
 TQ: SEDOM, DIST: GULBARGA. ... ACCUSED

(BY SRI S S KUMMAN, GOVT. ADVOCATE)

CCC FILED U/S.11 AND 12 OF THE CONTEMPT
 OF COURT ACT, 1971 PRAYING TO INITIATE
 CONTEMPT PROCEEDINGS AGAINST THE ACCUSED
 FOR DISOBEYING ORDER DATED 12.02.2009 IN WP
 NO.8323/2007.

IN C.C.C. NO.1348/2009: (CIVIL)

BETWEEN:

1. RASHIDA BEGAM
 W/O SYED RIYAZ AHMED
 AGE: 33 YEARS
 OCC: HOUSE HOLD & AGRICULTURE
 R/O SEDOM
 TQ: SEDOM, DIST: GULBARGA
2. MD. OMER MINYA
 S/O MD. MASHAKSAB
 AGE: 48 YEARS
 OCC: AGRICULTURE
 R/O SEDOM
 TQ: SEDOM, DIST: GULBARGA
3. AZIZ REHEMAN S/O
 ABDUL KAREEM, AGE: 58 YEARS
 OCC: AGRICULTURE
 R/O SEDOM, TQ: SEDOM,
 DIST: GULBARGA.

4. SYED KHASIM
 S/O SYED WAJEED ALI
 AGE 48 YEARS
 OCC: AGRICULTURE
 R/O SEDOM
 TQ: SEDOM
 DIST: GULBARGA ... COMPLAINANTS

(BY SRI S S SAJJANSHETTY, ADVOCATE)

AND:

1. MR. R.B. AGWANI
 THE STATE OF KARNATAKA
 BY ITS PRL. SECRETARY
 PWD (C & D)
 M.S.BUILDING
 BANGALORE-1
2. MR. M.M. HIEMATH
 THE CHIEF ENGINEER
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 DHARWAD DIST: DHARWAD
3. MR. K.SATTYA MURTHI
 THE DEPUTY COMMISSIONER
 MINI VIDHANA SOUDHA
 GULBARGA-585 301
4. MR. CHANDRAMOULI NAIK
 THE SUPERINTENDING ENGINEER
 PWD, GULBARGA CIRCLE
 GULBARGA-585 301
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 FOR KARNATAKA HIGHWAY
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 GULBARGA-585 301

6. MR. SHIVALINGAPPA KHASIMPUR
 THE ASSISTANT EXECUTIVE ENGINEER
 PWD, SUB-DIVISION
 SEDOM
 TQ: SEDOM, DIST: GULBARGA ... ACCUSED

(BY SRI S S KUMMAN, GOVT. ADVOCATE)

CCC FILED U/S 11 AND 12 OF THE CONTEMPT
 OF COURT ACT PRAYING TO INITIATE CONTEMPT
 PROCEEDINGS AGAINST THE ACCUSED FOR
 DISOBEYING ORDER DATED 12.02.2009 IN WP
 NO.8323/2007.

THESE CCCs COMING ON FOR ORDERS THIS
 DAY, **D.V.SHYLENDRA KUMAR J.**, MADE THE
 FOLLOWING:

ORDER

These contempt petitions filed under Sections 11 &
 12 of the Contempt of Courts Act, 1971 are by the writ
 petitioners in W.P.No.8322/2007 (LA-RES) (five in
 numbers) and W.P.No.8323/2007 (LA-RES) (four in
 numbers) and are listed today before the Court for not
 fulfilling the deficiencies pointed out by the Registry in the
 presentation of the contempt petitions.

2. Sri S S Sajjanshetty, learned Counsel
 appearing for the Complainants requested for a week's
 time to comply with the short fall and to make the
 complaints tenable.



3. However, from the perusal of petition averments and on hearing the submissions made by Sri S S Sajjanshetty, learned Counsel for the Complainants and also Sri S S Kumman, learned AGA appearing for the respondents, we find these contempt petitions are not any different from a series of contempt petitions, we have come across hitherto whereunder, persons without bonafides, without any legal basis and without any real cause of action had approached this Court for issue of a Writ of Mandamus on imaginary grievances and even without any legal entitlements and with the learned AGA appearing for the State either conceding or not opposing, the prayer in the writ petition being granted and thereafter writ petitioners coming back before this Court with Contempt Petitions complaining of non compliance by the respondents of the orders/directions passed in the writ petition and therefore have rendered themselves for action in contempt jurisdiction.

4. The story in this petition is not any different from similar matters, disposed of by us in CCC No.1324/2009 dated 23.11.2009 etc.



5. The Registry has also overlooked that there should have been as many contempt petitions as there are complainants. Each complainant was a different writ petitioner even in the writ petition and even as per the submission of Sri S S Sajjanshetty, learned Counsel for the Complainants, separate Court fee had been paid on the writ petitions and even on these complaints separate court fee has been paid. Therefore, the Registry is directed to assign commensurate separate numbers.

6. Contempt Petitioners are complaining that the orders passed by this Court in W.P.No.8322/2007 (LA-RES) dated 12.2.2009 and in W.P.No.8323/2007 (LA-RES) dated 12.2.2009 are not complied with, and the State Government has not considered the representations made by the petitioners as per Annexures 'P' and 'Z8' annexed to the respective writ petitions within a period of two months as directed.

7. A perusal of Annexure 'P' dated 3.3.2003 indicates that it is a representation by one Ajimoddin Patel s/o Mastan Patel, Behind K.E.B.Colony, Sedam-585 222, District Gulbarga, addressed to the Governor of the State of Karnataka and it is a representation,



which is general in nature, interalia, complaining that though certain proceedings under the Karnataka Highways Act had begun about two years earlier, there was no action on the part of the Government to sanction compensation to the land owners and therefore he had urged the Governor to direct the Government to sanction and pay compensation to the persons affected. This representation is of very general nature, vague and not with reference to the lands of either of the writ petitioners or the Complainants.

8. Sri S S Sajjanshetty, learned Counsel appearing for the Complainants, has also brought to our notice another representation dated 9.8.2004 again by the very person and in a representative capacity addressed to the Chief Engineer, Buildings and Communication, Karnataka State Highways Authorities, Dharwad, urging upon the Chief Engineer, to ensure that the boundary line of the State Highway passing through the town limits of Sedam Town is confined to 15 meters from the centre of the road and ensure that it does not extend upto 22.5 meters as is the case



generally when the boundary lines are drawn outside the town limits and nothing else.

9. Even on our pointed queries Sri S S Sajjanshetty, learned Counsel appearing for the Complainants is unable to show any acquisition proceedings in terms of the provisions of Section 15 of the Karnataka Highways Act, 1964 which reads as under:-

“ 15. Acquisition of land or right or interest in land: *If at any time on the application of the Highway Authority, the State Government is satisfied that any land required for the purposes of a highway or any right or interest of any person in any land required for the said purposes should be compulsorily acquired or extinguished, as the case may be, it shall be lawful for the State Government to publish a notification to that effect in the official Gazette. Such notification shall also be published in such other manner as may be prescribed. A notification so published shall be deemed to be the declaration that the land is needed or, as the case may be the right or interest is required to be extinguished for the purposes of the*



highway; and such deemed to be the declaration that the land is needed or, as or the right or interest is so required to be extinguished."

10. Learned Counsel is not able to point out any such proceedings vis-a-vis the complainants and writ petitioners to indicate that any land in their ownership and to any extent has been acquired by the State Government for the benefit of the Highways Authorities and that the petitioners consequently had become entitled to compensation.

11. However, Annexure 'B' to the writ petition on which strong reliance was placed by Sri S S Sajjanshetty to contend that the respondents have acquired the lands of the complainants, is a notification dated 8.8.2001 issued under Section 7(1) & Section 8 of the Karnataka Highways Act, relating to fixation of the highway boundary lines, building line and control line and does not relate to any acquisition proceedings.

12. In response to the notice that has been issued by this Court in these contempt petitions,



respondents are represented by Sri S S Kumman, learned AGA and 4th respondent has filed a counter interalia indicating that there is no case for taking any contempt action against the respondents; that infact re-drawing of the boundary lines has been now finalised in terms of a notification dated 21.11.2009 issued under Section 7 of the Act pursuant to the proceedings of the Government dated 5.7.2009, as a follow up action of the directions issued by this Court in W.P.Nos.8322/2007 and 8323/2007 dated 12.2.2009; that, no lands of the complainants/petitioners have ever been acquired and therefore there was never any occasion to pay them compensation. Even the other grievance of reducing Highway boundary line in Sedam town has also been now acceded to by reducing the same from 22.5 meters to present 15 meters and as such there is absolutely no grievance, which the Complainants can still press for action against the respondents and therefore, the contempt petition is to be dismissed.

13. We have also noticed from the records and the notification placed before the Court that the



Government infact had taken a decision even in the year 2004 itself to reduce the Highway boundary line from 22.5 meters to 15 meters and it was only a follow up notification under Sections 7 & 8 of the Act that had not been issued hitherto. At any rate we find that the petitioners/Complainants have never been affected by the action or inaction on the part of the Highway authorities. We also find that the entire grievance of the petitioners/Complainants both in the writ petition and in the present contempt petition is more imaginary than any genuine grievance. Infact there was no cause of action for the Complainants to approach this Court seeking for issue of a Writ of Mandamus, and the entire writ petition averments appears to be only based only on mis-representation, incorrect facts and even lies.

14. Complainants have only misused and abused the process of this Court both in writ jurisdiction and in contempt jurisdiction and have therefore wasted the valuable judicial time of this Court, which in fact is meant to be spent for the redressal of grievances of bonafide, affected litigants on such



frivolous matters, without bonafides and without cause of action. We strongly deprecate such tendency on the part of the litigants. It is rather surprising that the learned Counsel appearing for such litigants have also made themselves bold to assert wrong facts and on untenable legal basis, virtually trying to convince the Court on facts and law, not borne out on record and not available in reality. It is high time for this Court to bestow greater attention to discourage such tendencies on the part of such litigants.

15. We cannot help noticing that even the learned Counsel appearing for the State Government have not at all been discharging their professional duties in a proper manner to protect the interest of the State Government, which infact is only in public interest and public interest is sacrificed due to their either incompetency or deliberate inaction. This tendency also is only to be deprecated and it is high time for the State Government to take notice of these developments and ensure that competent, bonafide committed members of




the Bar are appointed as Government Advocates and Government Pleaders.

16. These contempt petitions are dismissed levying cost of Rs.1,000/- on each of the Complainant numbering nine in all.

17. We direct the cost to be deposited before the Registry of this Court and the amount to be transmitted to the account of the High Court Legal Services Committee to be maintained at this Bench, which can be availed to extend legal aid to the poor litigants, who need such aid and come up with their problems before this Bench of the High Court. Cost to be deposited within four weeks from today.

18. The Additional Registrar General to monitor the disbursement of the amount to deserving litigants and to ensure that a separate account is maintained at the Registry for this purpose and costs, if any, awarded, in favour of the Committee is promptly credited to this account and properly accounted for.



19. Registry is directed to renumber the contempt petitions and to give additional seven numbers as there are nine contempt petitions.

20. Contempt Petitions dismissed with costs.

Sd/-
JUDGE

Sd/-
JUDGE

cp*