

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 1139 of 2021

Applicant :- Abhay Kumar Chaubey

Opposite Party :- Prem Chand, And 12 Others

Counsel for Applicant :- I. N. Singh, Ajay Yadav

Counsel for Opposite Party :- A.D. Saunders

Hon'ble Rohit Ranjan Agarwal, J.

1. Heard Sri I.N.Singh, learned counsel for the applicant and Sri A.D.Saunders, learned counsel for opposite party No.1 to 6 and 8 to 13.

2. The writ Court on 20.11.2018 in the matter under Article 227 No.8495 of 2018 has passed the following order :

"Sri N.S. Tripathi, Advocate has put in appearance on behalf of the opposite party No.1.

Issue Notice to opposite party Nos. 2 to 7 returnable at an early date.

Notice on behalf of opposite party Nos. 8 & 9 has been accepted by learned A.G.A.

Opposite parties may file their counter affidavits within four weeks. Rejoinder affidavit may be filed within two weeks thereafter.

The parties shall maintain status quo with regard to nature, character, possession over property in dispute, till the next date of listing."

3. From perusal of the order it is clear that a direction was issued for maintaining status quo with regard to nature, character, possession over property in dispute, till the next date of listing.

4. It appears from the record that an application was moved by the applicant on 08.01.2021 before Commissioner, Jhansi Division, Jhansi alleging that Khem Chandra, respondent in the writ petition, along with other person have tried to raise construction over the property in dispute and has violated the order passed by writ Court. In para 28 of the contempt application, a vague averment has been made that the opposite parties are changing the nature of the land.

5. A counter affidavit has been filed on behalf of opposite party No.1 to 13 wherein it has been specifically mentioned that Khem Chandra had died on 25.01.2020 i.e. before the application was moved on 08.01.2021.

6. Sri A.D.Saunders, learned counsel appearing for opposite parties states that the said fact has not been denied in the rejoinder affidavit wherein in para 9 the contents of para 19 of the counter affidavit has been replied.

7. From perusal of material on record it is clear that Khem Chandra, respondent No.1 in the writ petition, had died on 25.01.2020 therefore, the application on his behest could not have been moved before the Commissioner on 08.01.2021. Moreover, there is no specific allegation in the contempt application of the violation of the interim order passed by writ Court and only a vague allegation has been made.

8. No case for contempt is made out. The contempt application is misconceived and hereby dismissed.

9. Contempt notice stands discharged.

Order Date :- 13.10.2023

Kushal