

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2004 of 2023

Applicant :- Naresh Yadav

Opposite Party :- Ritu Maheswari, Chief Executive Officer

Counsel for Applicant :- Sunil Dutt Kautilya, Satyavrat Sahai

Counsel for Opposite Party :- Anjali Upadhya

Hon'ble Rohit Ranjan Agarwal, J.

1. The writ Court on 16.12.2019 while disposing off Writ-C No. 41582 of 2019 passed the following order;

"This writ petition has been filed by the petitioners with the following relief:-

(a) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent authorities to pay the cost of the land of Khasra No.879/1M, measuring area 0.1520 hectare situated at Village Sohrakha Jahidabad, Tehsil and Pargana Dadri, District Gautam Budh Nagar, and/or further to release the land of petitioner after removing all the structure/existing construction of road from the land of the petitioner.

(b) Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case to meet the ends of justice.

(c) To award the cost of the petition in favour of the petitioners.

Heard learned counsel for the petitioners, Sri Kaushlendra Nath Singh learned counsel for the respondent no.2 and perused the record.

Learned counsel for the petitioners has confined his prayer to the extent that the petitioner may be permitted to make a fresh representation before the concerned authority in respect of his grievances with a direction to the concerned authority to decide the same within a stipulated period.

Considering the facts and circumstances of the case, without expressing any opinion on the merits of the case, this writ petition is finally disposed of with a direction to the petitioners to make a fresh representation before the respondent no.2 ventilating his grievances within two weeks from today along with a certified copy of this order enclosing therewith a copy of the writ petition and its entire Annexures, if any such representation is made, the said authority shall consider and decide the same by a speaking and reasoned order in accordance with law within six weeks from the date of receipt of the said representation."

2. From perusal of the order of writ Court it is clear that a direction was issued directing the applicant to make fresh

representation before the authority concerned which was to decide the same in accordance with law by a reasoned and speaking order.

3. Compliance affidavit has been filed on behalf of the opposite party wherein it has been stated that earlier an order was passed on 30.04.2020 and, thereafter, in compliance of the order passed by the contempt Court issuing notices an order has been passed on 03.05.2023, copies of the orders dated 30.04.2020 and 03.05.2023 have been brought on record as annexure Nos. 1 and 2 to the compliance affidavit.

4. Sri S.D. Kautilya, learned counsel appearing for the applicant, states that the authorities have not considered the land of the applicant which was Khasra No. 879/1-M and had decided the matter of another land. According to him the compliance of the order of writ Court has not been done for which the dispute has been raised by the applicant.

5. This Court after perusing the order passed by the writ Court finds that only direction was issued to the opposite party that in case fresh representation is made the same was to be decided by the opposite party in accordance with law.

6. Recently, the Apex Court in **Dr. U.N. Bora, Ex. Chief Executive Officer and others Vs. Assam Roller Flour Mills Association and another 2022 (1) SCC 101** has held that contempt Court cannot delve into the disputed question of facts and cannot do roving inquiry. Relevant extract of the said judgment is as under:-

"8. We are dealing with a civil contempt. The Contempt of Courts Act, 1971 explains a civil contempt to mean a wilful disobedience of a decision of the Court. Therefore, what is relevant is the "wilful" disobedience. Knowledge acquires substantial importance qua a contempt order. Merely because a subordinate official acted in disregard of an order passed by the Court, a liability cannot be fastened on a higher official in the absence of knowledge. When two views are possible, the element of wilfulness vanishes as it involves a mental element. It is a deliberate, conscious and intentional act. What is required is a proof beyond reasonable doubt since the proceedings are quasi-criminal in nature. Similarly, when a distinct mechanism is provided and that too, in the same judgment alleged to have been violated, a party has to exhaust the same before approaching the court in exercise of its jurisdiction under the Contempt of Courts Act, 1971. It is well open to the said party to contend that the benefit of the order passed has not been actually given, through separate proceedings while seeking appropriate relief but certainly not by way of a contempt proceeding. While dealing with a contempt petition, the Court is not expected to conduct a roving inquiry and go beyond the very judgment which was allegedly violated. The said principle has to be applied

with more vigour when disputed questions of facts are involved and they were raised earlier but consciously not dealt with by creating a specific forum to decide the original proceedings."

7. This Court finds that no roving and fishing enquiry can be done by the contempt Court while exercising jurisdiction under Section 12 of Contempt of Courts Act, 1971.

8. From perusal of the order of writ Court and the compliance done by the opposite party, no case for contempt is made out.

9. Contempt application stands dismissed. However, leaving it open to challenge the order passed by the opposite party before the appropriate forum, if so advised.

10. Contempt notice stands discharged.

11. File consign to record.

Order Date :- 26.10.2023

Shekhar