

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 8973 of 2023

Applicant :- Vishwanath And Another

Opposite Party :- Shri Vikas Chandra,S.D.M. And 5 Others

Counsel for Applicant :- Santoosh Kumar Dwivedi

Hon'ble Rohit Ranjan Agarwal,J.

The writ Court on 11.05.2022 while disposing of Writ-C No.99746 of 2022 had passed the following order:-

"It is argued by the counsel for the petitioners that an application dated 28.06.2021 was submitted by them before the respondent no. 2 namely Sub District Magistrate Tamkuhiraj, District Kushinagar on 28.06.2021, copy of which is appended as Annexure-3 to the present petition but till date no decision has been taken on the same.

A preliminary objection has been raised by the learned Standing Counsel that the representation should be made by the petitioners before the Assistant Collector concerned but no such application has been filed by the petitioners.

Heard counsel for the parties.

Considering the facts and circumstances of the case and without entering into the merits of the case, the present petition is disposed of finally permitting the petitioners to move a proper application as per the provision contained under Section 129 of U.P. Revenue Code, before the concerned competent authority. If such application is filed within a period of three weeks from today, the concerned competent authority will decide the same in accordance with law, expeditiously and preferably within a period of six weeks thereafter."

It seems that the order of the writ Court was not complied, which led to filing of Contempt Application (Civil) No.4779 of 2022, which was disposed of and opposite party no.1 was granted three months' time to comply the order of the writ Court dated 11.05.2022. A second contempt application was moved being Contempt Application (Civil) No.8110 of 2022 alleging that the order of the writ Court, till date, has not been complied with. During the pendency of the second contempt application, the order dated 11.05.2022 was complied with and the file was consigned to record. The order passed in Contempt Application (Civil) No.8110 of 2022 on 03.01.2023 is as under:-

"Learned counsel for the applicant states that the order of the writ Court has been complied with and the matter has become infructuous and same

may be dismissed.

Accordingly, the present application is dismissed as infructuous.

Notice, if any, stands discharged.

Let the present application be consigned to record."

This is the third contempt application filed by the applicants alleging that after the compliance of order, the applicants were put in possession over the property in dispute, but the private parties no.3 to 6 had again removed their possession and had violated the order of the writ Court.

This Court finds that the order dated 11.05.2022 was only to the extent that in case applicants move an application under Section 129 of the U.P. Revenue Code, 2006 before the competent authority, the same was to be decided strictly in accordance with law.

Complying the order of the writ Court, opposite party no.1 had decided the application and put the applicants in possession.

Once, the order of the writ Court has been complied with, no occasion arises for any contempt.

Contempt application is misconceived and the same stands dismissed.

Order Date :- 13.12.2023

SK Goswami