

IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 13 OF 2015

IN

WRIT PETITION NO. 414 OF 2015

SHRI. FELIX AGNEL RODRIGUES.

... Petitioner

Versus

MR. DWARKA RAO, GERA DEVELOPMENT
PVT. LTD. AND ANR.,

... Respondents

Mr.J. Abreu Lobo, Advocate for the petitioner.

Mr. A. D'Silva, Advocate for the respondent no.1.

Mr. A.D. Bhobe, Advocate for respondent no.2.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 14th July, 2015

P.C.:

Heard the learned counsel appearing for the respective parties.

2. This is an application for contempt filed by the applicant, inter alia, contending that there is a breach of the directions issued by this Court vide ad-interim order dated 28th May of 2015.

3. It is the contention of the learned counsel appearing for the applicant that despite of an order dated 28th May of 2015, on 30th May, 2015, the respondents have entered into the property belonging to the applicant and in breach of the directions issued by this Court. The learned counsel, however, submits that as the directions issued by this Court have been violated, the respondents deserve to be punished for contempt. The learned counsel has, therefore, taken us

through the order dated 28th May of 2015 as well as the order dated 29th May of 2015 to point out that the order passed by this Court was in operation on 30th May, 2015.

4. On the other hand, the learned counsel appearing for the respondent no.2, has disputed the said contention. The learned counsel has taken us through the order passed by this Court on 28th May of 2015 to point out that the ad-interim relief granted in terms of prayer clause (b) was in operation till the adjourned date i.e. 29th May of 2015. The learned counsel further submits that on 29th May of 2015, there was no specific order extending the order passed by this Court on 28th May of 2015. The learned counsel, thereafter has taken us through the observations in the order dated 28th May of 2015 wherein there was a specific directions to the respondent no.2 to carry out the work in the property at its own risk though there was direction to the Junior Engineer of the respondent no.2 that he would be present at the site. The learned counsel further submits that, as the order dated 28th May of 2015 was not in operation, the question of claiming that there is any breach of the order on 28th May of 2015 is totally erroneous.

5. We have considered the rival contentions of the learned counsel appearing for the parties. We have also gone through the order dated 28th May of 2015. The order dated 29th May of 2015, inter alia, states that the respondent no.2 would carry out the work at its own

risk. The order dated 28th May of 2015 clearly states that the order is in operation up-till the adjourned date i.e. 29th May of 2015. The propriety of doing any work when the petition is pending in this Court, is a different matter to be considered, on its own merits. It is also not disputed that on 30.05.2015 when legal notice was served on the respondent, such work was voluntarily abandoned. Apart from that, the writ petition is finally disposed of.

6. We find that the question of entertaining the contempt application does not arise in the circumstances of the case. Hence, the above application is accordingly dismissed.

K. L. WADANE, J.

F. M. REIS, J.

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