

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REFERENCE CONTEMPT OF COURT CASE NO.2 OF 2014

(U.N. Patil, Joint Civil Judge, Junior Division, Hinganghat vs. U.M. Zende, Assistant Superintendent, T.I.L.R., T.I.L.R. Office, Hinganghat, District Wardha and another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri D.V. Siras, Advocate for respondent no.1.

Shri T.A. Mirza, Additional Public Prosecutor for
respondent no.2.

CORAM : A.B. CHAUDHARI AND
P.N. DESHMUKH, JJ.

DATED : JANUARY 06, 2015

Perused the reference order dated 15/9/2014 made by the learned Joint Civil Judge, Junior Division, Hinganghat. The learned Judge has found that in spite of order passed by the said Court in Regular Civil Suit No.90/2007 appointing T.I.L.R., Hinganghat as Court Commissioner on 9/1/2014 and issuing directions to measure the land involved in that suit and to file report within two

months, respondent no.1 has disobeyed the said order. It appears that the learned Judge has found that though respondent no.1 had received writ issued by the said Court on 13/1/2014, he had failed to submit report within two months and he had also not submitted convincing reasons as to why he had fixed date for carrying out measurement, i.e. 16/9/2014 and, therefore, act of respondent no.1 constitutes contempt as contemplated under Section 2(b) of Contempt of Courts Act, 1971.

We have seen the reasons recorded by the learned Judge for making reference. On perusal of the reference order, it appears that the only ground mentioned in para (2) of the same is to the effect that in spite of receipt of writ issued by the said Court to T.I.L.R. on 13/1/2014 and though he was directed to submit report within a period of two months, he fixed the date, i.e. 16/9/2014 for carrying out measurement without any convincing reason.

It further appears that in response to the show cause notice issued to respondent no.1, respondent no.1 submitted that he joined as Deputy Superintendent of Land Records, Hinganghat on

19/1/2014 and on 7/2/2014, he issued letter to plaintiff in that suit for depositing Court Commissioner measurement charges/fees, which appears to be not deposited due to death of plaintiff till 25/7/2014 on which date plaintiff's wife Mandabai had deposited the same by way of challan in State Bank of India. From para 6 of the reply of respondent no.1, it is revealed that on depositing said charges, measurement was fixed on 12/8/2014. However, due to strike in Department, measurement could not be carried out till 24/8/2014 and thus, measurement was fixed on 16/9/2014 and its report came to be submitted on 29/9/2014 to the concerned Court. It is further revealed that before said report was submitted, show cause notice was issued by the learned Judge to respondent no.1 on 2/9/2014. In response to it, it was informed on 4/9/2014 that measurement was fixed on 16/9/2014.

On perusal of reply of respondent no.1, we find that there is sufficient cause mentioned, due to which measurement could not be carried out within stipulated time as granted by the Court. In that view of the matter, we find that this by itself

does not constitute contempt of Court within the meaning of Section 2(b) of Contempt of Courts Act, 1971. On the contrary, it appears that the learned Judge in spite of having received reply of respondent no.1 on 4/9/2014 to the show cause notice informing about the date as 16/9/2014 fixed for carrying out measurement, issued reference order on 15/9/2014.

In that view of the matter, we find it necessary to observe that the learned trial Judge in undue haste without considering the reply as stated above, issued the reference. It is necessary to note that contempt proceedings - either civil or criminal - cannot be initiated for each and every act in a casual manner or in a routine course.

Considering the facts as aforesaid, we find that no act of respondent no.1 constitutes contempt as contemplated under Section 2(b) of Contempt of Courts Act, 1971. We, therefore, discharge respondent no.1 and dispose of the reference accordingly as not tenable.

JUDGE

JUDGE

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