

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE No.1506 OF 2015

ORDER:-

This Contempt Case is filed under Sections 10 to 12 of Contempt of Courts Act, 1971 (for short "the Act"), alleging violation of the order dated 04.02.2015, passed by this Court in W.P.M.P.No.2586 of 2015 in W.P.No.1926 of 2015.

Notice before admission was ordered by this Court on 21.08.2015 and a counter-affidavit has been filed by the 1st respondent-Joint Collector, denying the allegation of violation of the orders of this Court.

Heard Sri Sitaram Chaparla, learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (A.P.).

Writ Petition No.1926 of 2015 was filed with the following prayer:

"to declare the action of the respondents in treating the land of the petitioner admeasuring Ac.6.00 in Sy.No.57/2 of Yendada Village, Visakhapatnam Rural Mandal, Visakhapatnam District as Government land by publishing in Visakhapatnam District Gazettee No.75 dated 13.08.2014 as arbitrary, illegal and set aside the same and consequently to direct the respondents 2 and 3 to record the name of the petitioner in the revenue records as pattadar of the said land."

Along with the writ petition, the petitioner had also filed W.P.M.P.No.2586 of 2015 with the following prayer:

"to direct the respondent No.1 not to dispossess the petitioner from his land admeasuring Ac.6.00 in Sy.No.57/2 of Yendada Village, Visakhapatnam Rural Mandal, Visakhapatnam District, in pursuance of the Gazette Publication No.75 dated 13.08.2014, pending disposal of the main writ petition."

This Court after hearing the petitioners, granted the interim direction as prayer for on 04.02.2015.

The case of the petitioner in the contempt case is that in and around July, 2015 a road has been laid by the respondents authorities through the land of the petitioner and thus, there is violation of the order dated 04.02.2015, passed by this Court in W.P.M.P.No.2586 of 2015 in W.P.No.1926 of 2015. The Mandal Revenue Inspector-II, Visakhapatnam (Rural) proposed to lay a road in the land in Sy.No.57/2, Yendada Village over an extent of Ac.02.02 cents and addressed a letter on 28.03.2015 to the Tahsildar, Visakhapatnam (Rural). When the authorities approached the petitioner's land for the purpose of laying down the road, the petitioner objected and informed about the order of this Court in W.P.M.P.No.2586 of 2015 in W.P.No.1926 of 2015 and inspite of the same, the respondents-authorities demolished the compound wall of the petitioner on 17.07.2015 and starting laying down the road through the land of the petitioner. This action of the respondents-authorities is nothing but clear violation of the order dated 04.02.2015, passed by this Court in W.P.M.P.No.2586 of 2015 in W.P.No.1926 of 2015 and hence the respondents-authorities are liable to be punished under the provisions of the Act.

In the counter-affidavit filed by the first respondent-Joint Collector, it has been asserted that originally D-Form pattas were granted in favour of four persons viz., 1) Uppuluri Narayanaswamy, 2) Uppuluri Appa Rao, 3) Uppuluri Atchanna and 4) Uppuluri Ammadamma over an extent of Ac.6.00 cents and the said assignments were cancelled by the Tahsildar concerned for violation of the conditions of assignment and the said persons had preferred an appeal before the Revenue Divisional Officer, Visakhapatnam and the same was dismissed on 15.04.1996. Thereafter, the lands were resumed from the original assignees for an extent of Ac.05.11 cents in Sy.No.57/2-part and was handed over to the Judicial Department for construction of the quarters for the Judicial Officers vide proceedings in Rc.No.210/2006/SPI.R.I. dated 22.03.2006 of the Mandal Revenue Officer, Visakhapatnam Rural. Further, a boundary wall was also constructed around the land by the Visakhapatnam Urban Development Authority, Visakhapatnam, to protect the land as ordered by the District Collector, Visakhapatnam. It is further stated that during the process of preparation of

list of Government Lands Register under Section 22-A of the A.P. Registration Act, 2007 (for short, "the Act") in exercise of the powers conferred by Government Notification of the Act, 19 of 2007 and in terms of the draft list of prohibited properties under Section 22-(A)(1)(a) of the Act in Visakhapatnam Revenue Division covered by 10 Mandals were first published vide Visakhapatnam District Gazette No.75, dated 13.08.2014 for information of the public and inviting objections, if any. Petitioner had also filed his representation requesting to de-notify the subject land and the same was rejected by the proceedings dated 19.08.2015 of the District Collector, Visakhapatnam. It is further stated that the Tahsildar, Visakhapatnam Rural has proposed to provide the approach road facility through the land in Sy.No.57/2 measuring an extent of Ac.0.20 cents in Northern side as the Regional Fertilizer Quality Control Laboratory has no approach road and the said proposal is under examination and no decision has been taken in this matter so far. Several other averments made in the writ petition which are really not required to be adverted to for the purpose of disposing of this Contempt Case.

The sum and substance of the objections are that the writ petitioner is not in possession of the land and he has no manner of right over the land in question on account of the very pattas granted in favour of the original allottees having been cancelled. It is also further asserted that the proposal to provide the road facility through the land in Sy.No.57/2, Yendada is under examination and no decision has been taken in this matter and thus, there is no violation of the order dated 04.02.2015, passed by this Court in W.P.M.P.No.2586 of 2015 in W.P.No.1926 of 2015. It is further stated that the compound wall was demolished by some unknown private persons and not by the respondents-authorities and Tahsildar, Visakhapatnam Rural had infact lodged a complaint with the police concerned on 10.08.2015 and finally it is stated that there is no violation or disobedience of the order of this Court much less wilful disobedience on their part and prayed for dismissal of the contempt case.

The averments made in the counter-affidavit filed by the 1st respondent-Joint Collector, stands un-rebutted as there is no reply affidavit filed by the petitioner. In the facts of the present case, the relief claimed in the main writ petition is that the action of the authorities in including the lands of the petitioner in Sy.No.52/7, Yendada in the prohibited list under Section 22-A of the Act and for declaring the publication made in Visakhapatnam District Gazette No.75 dated 13.08.2014 as arbitrary, illegal and unconstitutional and the interim relief sought for was not to dispossess the petitioner from the land in Sy.No.57/2 of Yendada Village, Visakhapatnam District.

A perusal of the affidavit filed in support of the writ petition does not indicate any averments having been made by the petitioner that there is any attempt on the part of any of the respondents in trying to interfere or dispossess with the alleged possession of the petitioner. The ad-interim order granted by this Court at the admission stage is on the presumption that the petitioner was in possession and the petitioner had some semblance of legal right in the lands in Sy.No.57/2, Yendada Village. The categorical averments of the respondents is that the petitioner was never in possession and the averments with respect to cancellation of pattas granted in favour of four persons and the possession having been taken from them has not been denied. Further, in the counter-affidavit it has categorically denied that the proposal to lay road is only under consideration. In these facts situation and especially considering there being disputed questions of fact, it cannot be said that there is any wilful disobedience of the orders of this Court on the part of the respondents-authorities and thus, there is no reason for this Court to entertain the Contempt Case.

Accordingly, the Contempt Case is dismissed. However, the observations made with respect to the prima facie right of the petitioner in the present order are only for the purpose of disposal of the Contempt Case and the same shall not be construed in any manner as an expression of the petitioner's right in the property which he otherwise may have. No order as to costs.

CHALLA KODANDA RAM,J

Date:23.09.2015.

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