

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CONTEMPT CASE No.784 of 2014

Dated : 30.01.2015

Between:

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E. Devender Rao S/o.Late E. Atma Ram,
Aged 57 yrs, Occu : Retired from service,
R/o.7-1-100, Ferozeguda, Bowenpally,
Secunderabad.

.. Petitioner

And

Dharma Reddy,
Defence Estate Officer,
Andhra Pradesh Circle,
City Civil Court's Compound,
Secunderabad & another

.. Respondents

This Court made the following :

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ORDER :

Alleging violation of the orders passed by this Court on 10.12.2013 in W.P.M.P.No.44836 of 2013 in W.P.No.36066 of 2013, this Contempt Case is filed.

2. The case of the petitioner in the writ petition is that he is the owner and in possession of House Nos.1-6-313 & 1-6-314, admeasuring 1150 Square Yards, in Bowenpally, Secunderabad, having succeeded the same by way of Succession. While so, the respondents attempted to demolish the said premises, which compelled the petitioner to institute the writ petition. By way of an interim order, the petitioner sought direction not to demolish any structures in House Nos.1-6-313 & 1-6-314 situated in Bowenpally, to an extent of 1150 Square Yards. This Court passed interim stay as prayed for, initially for a period of two weeks and subsequently extended until further orders.

3. The petitioner alleges that inspite of the interim order operating in his favour, the said structures were demolished and therefore, the respondents have violated the orders of this Court.

4. The 2nd respondent filed counter affidavit. According to the stand of the 2nd respondent, the 1st respondent addressed a letter dated 21.05.2014 requesting to provide men and machinery to undertake demolition operation of the illegal structures made in GLR Sy.No.558 Pension Lines, Bowenpally, from 18 to 20 illegal structures raised including the structures of the petitioner. He further asserted that the petitioner sold the illegal structures to one Krishna Veni under registered sale deed dated 02.05.1991, who in turn applied for building permission in the year 2004 and the Cantonment Board (Board) rejected the same. However, said Krishna Veni is still living in the

illegal structures raised by the petitioner before he sold the same to her.

5. The case of the 2nd respondent that he has not committed any contempt. The 2nd respondent did not demolish the structures but has only provided men and machinery as requested by the 1st respondent in letter dated 21.05.2014 .

6. Learned Senior Counsel appearing for 2nd respondent submits that the letter is silent as to which properties have to be demolished. He further asserts that in the pleadings of the writ petition, the petitioner has not stated the survey number in which the two premises claimed by the petitioner were standing. Whereas, in the letter dated 21.05.2014 GLR Sy.No.558 was mentioned and as requested by the 1st respondent, the men and machinery was provided to the 1st respondent. Thus, the 2nd respondent has not violated the orders of the Court.

7. Learned Senior Counsel also contends that there is discrepancy in the photographs filed by the petitioner. The photographs on the one hand show a barren land spreading a large extent and on the other hand some structures.

8. The affidavit filed in support of the contempt case is also silent as to when, such demolition took place. Whereas in the photographs, the date is mentioned as 26.05.2014. Learned Senior Counsel, therefore, contends that the assertions of the petitioner are vague in the contempt proceedings. Unless it is clearly and categorically asserted that deliberately the orders of the Court are violated, the proceedings under Contempt of Courts Act, are not maintainable.

9. Learned Assistant Solicitor General, submits that there are several illegal structures on the land classified as B4 in GLR Sy.No.558 of Secunderabad Cantonment Board. Steps were taken to demolish those illegal structures with the help of 2nd respondent as sought by the 1st respondent. On verification of the illegal structures, it was noticed that two sheds with tubular trussed roof and brick walls

were existing and the name of R.K. Food Parlour consisting in GLR Sy.No.558. The place is also used for parking of several cranes. Having noticed that those are illegal structures, they were demolished. The learned Senior Counsel also submits that the survey number and house numbers, where the houses are located is also not specified and has deliberately not stated leading to create confusion. It is further asserted that the Estate Officer, initiated proceedings for demolition of the unauthorized structures in GLR Sy.No.558 against Smt. Yadamma and Srinivas and not against the H.Nos.

1-6-313 & 1-6-314 of the petitioner and the proceedings emanating from such action are not relevant for the purpose of this case. Therefore, the stand of the respondents is that they have not demolished any houses, where H.Nos.1-6-313 & 1-6-314 were assigned and the said house numbers were standing in GLR Sy.No.558 of Secunderabad Cantonment Board.

10. Though, learned counsel for the petitioner asserts that it is the very same house numbers which are demolished, But no material is placed on record to substantiate the said contention and in the absence of specific material to prove that the very same house numbers which are the subject matter of the writ petition were demolished after the interim orders are passed by this Court proceedings under the Contempt of Courts Act cannot be initiated against the respondents. The contempt proceedings require strict proof of violation of the orders of this Court and merely basing on surmises and assumptions, no such proceedings can be initiated. Hence, I see no ground to initiate contempt of Court proceedings against the respondents.

11. Having regard to the above, the Contempt case is closed. However, it is made clear that the observations made are only for the purpose of considering the contempt case and shall have no bearing on the merits of the rival claims in the writ petition pending consideration before this Court. There shall be no order as to costs.

12. Miscellaneous petitions, if any, pending in this Contempt Case

shall stand closed.

30th January, 2015
Rds

P.NAVEEN RAO,J