

HON'BLE SRI JUSTICE S.V.BHATT

C.C.No.1675 OF 2014

ORDER:

This contempt case is filed complaining willful disobedience of the order dated 28.08.2014 in W.P.No.18812 of 2008.

The relevant portion of the order leading to filing of the present contempt case is as follows:

“A careful reading of these two certificates, in the opinion of this Court, are contradictory. It is not clear from the affidavit, the alleged purpose and occasion of issuance of such certificates either by the Village Revenue Officer or Mandal Revenue Officer. If one has to give credence to what is stated in the certificate dated 14.03.2006, it evidences that the petitioner is not holding any agricultural land in Geddapalem village. This certainly belies the assertion of the petitioner that he is in possession of Geddapalem village.

Be that as it may, the petition land is Government land. This Court, without expressing any view on the case set up by the petitioner as well as respondents, disposes of the writ petition directing the 3rd respondent to undertake personal inspection of the petition land and at the time of inspection, if it appear that the petitioner is in possession of the land or has constructed a house, the respondents are at liberty to dispossess the petitioner by following the procedure stipulated by law.”....

The case of petitioner is that he was in possession of the property covered by Sy.No.412 at Geddapalem Village, S.Rayavaram Mandal, Visakhapatnam. On 06.03.2014, the contemnor came to the land and directed the petitioner to vacate the premises. The respondent, without undertaking personal inspection of the petition land and finding out the actual possession, much less issuing notice before dispossession, demolished the house covered by Sy.No.412. The demolition of house violates the *status quo* order granted by this Court through order dated 28.08.2014.

The respondent and subordinate officers have filed counter-affidavit and additional counter-affidavits. I have perused the stand taken in the additional counter-affidavit and the version in the affidavit dated 06.03.2015.

Through the impugned order dated 28.08.2014, this Court directed the respondents therein to follow the procedure stipulated by law before either dispossessing or demolishing the unauthorized structures in Sy.No.412. The case of petitioner is that even before the copy of order could be received from this Court, the respondents claim to have issued notice under the Land Encroachment Act and demolished the same without following the procedure and this amounts to contempt.

It may be true that a notice is stated to have been issued without physically receiving a copy of the order in W.P.No.18812 of 2008. The contemnor and his subordinates have filed additional counter-affidavit and affidavits explaining the totality of circumstances. The respondent has placed before the Court the file relating to eviction proceedings taken against the petitioner herein. For the purpose of deciding this contempt, I am of the view that procedure was followed before dispossessing the petitioner. On the other objection that no personal inspection etc., has been conducted, in the counter-affidavit, a few misstatements are made. After considering the additional counter-affidavit of the contemnor, I am not proposing to go into the commission of these acts or whether they amount to willful disobedience of the order dated 28.08.2014.

The unconditional apology stated is as follows:

"I respectfully submit that it is a mistake on the party of my office.

I tender my unconditional apology for the said mistake that was crept in. The mistake was committed without any intention to defraud anybody or defeat the rights of any person. Though this Hon'ble Court passed orders on 28.08.2014, notice U/s 6

of the Act was issued on 12.9.2014 and pursuant to which the encroachment was removed on 10.10.2014. I once again respectfully submit that the mistake on my behalf may be pardoned. There is no wilful or deliberate default much less wilful disobedience to the orders passed by this Hon'ble Court. But the mistake occurred due to over anxiety for which I pray this Hon'ble Court to exonerate me.

Having regard to the totality of circumstances and also the manner of understanding the order of this Court by the respondent, I consider it appropriate to accept the unconditional apology placed on record and close the contempt case. There shall be no order as to costs. The notice already issued is discharged.

Miscellaneous petitions, if any, pending in this contempt case shall stand closed.

S.V.BHATT, J

17th March, 2015

Note:

*Office to communicate the
copy of order to the District Collector,
Visakapatnam for record.*

Lrkm