

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CONTEMPT CASE NO.664 OF 2015

DATED:13-11-2015

Between:

Pilli Mohan Yadav ... Petitioner

And

Sri M. Venkateswarlu

Deputy Commissioner

Greater Hyderabad Municipal Corporation

Malkajgiri Circle

Ranga Reddy District ... Respondent

COUNSEL FOR THE PETITIONER: Mr. B. Chandra Sekhar

COUNSEL FOR THE RESPONDENT: Mr. Chatla Madhu, Standing Counsel
for G.H.M.C.

THE COURT MADE THE FOLLOWING:

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ORDER:

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This contempt case is filed alleging wilful disobedience of order dt.24.10.2014, in Writ Petition No.31907 of 2014.

2. I have heard Mr. B. Chandra Sekhar, learned counsel for the petitioner, and Mr. Chatla Madhu, learned Standing Counsel for Greater Hyderabad Municipal Corporation (GHMC), appearing for the respondent.

3. The petitioner herein has filed the above mentioned writ petition with the grievance that respondent No.3 therein is constructing a building consisting of ground + three floors without even obtaining permission from the GHMC. By the above mentioned order, this Court has directed the respondent to ensure that respondent No.3 in the writ petition does not carry on further construction without a sanctioned plan being in existence. Alleging that in spite of the said order the respondent herein has deliberately failed to take any action to stop the illegal construction, the petitioner has filed this contempt case.

4. Along with the contempt case, the petitioner has filed photographs containing 03-04-2015 as the date on which they were taken, which show that respondent No.3 in the writ petition has completed the construction of ground + three floors in all respects. This Court, by order dt.4.9.2015 admitted the contempt case and issued notice in Form No.I. In response to the said notice, the respondent has appeared before this Court and filed a counter affidavit.

5. The respondent has *inter alia* stated in the counter affidavit that in pursuance of interim order dt.04.10.2014 he has inspected the site and found that the entire construction of respondent No.3 in the writ petition was completed as on the date of filing of the writ petition, that thereafter he has issued a notice under Section 452 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') on 17.4.2015 to respondent No.3 in the writ petition and that the latter has submitted an explanation on 20.4.2015 stating that he had completed the construction four years ago and when he requested for construction permission in the year 2010, he was informed that no prior sanction is required to carry out construction in a small piece of land of about 50 sq.yards. The respondent has further stated that since the said explanation was contrary to the Rules in force, a final notice dt.24.4.2015 under Section 636 of the Act was served upon respondent No.3 in the writ petition and that aggrieved by the same, he has filed W.P. No.12814 of 2015 wherein interim suspension of operation of the said notice was granted on 27.4.2015.

6. On 9.10.2015 this Court has passed an order observing that in paragraph 4 of the counter affidavit the respondent has stated that by the time interim order dt.24.10.2014 was passed by this Court, respondent No.3 in the writ petition has completed the construction; that, however, the learned Standing Counsel is unable to state the basis on which such statement was made and that in his counter

affidavit, the respondent has also not referred to the dates on which he has received the copy of the interim order and allegedly inspected the house of respondent No.3 in the writ petition. This Court has therefore directed the respondent to be personally present along with record and explain the ambiguous statement made in the aforementioned paragraph.

7. An additional counter affidavit was accordingly filed by the respondent wherein he has merely reiterated the contents of the counter affidavit and has failed to state the dates of his receiving the interim order of this Court and his inspection of the house.

8. Today, at the hearing, on persistent questioning by this Court, the respondent, who is personally present in the Court, has stated that he has received the interim order on 28.10.2014 and he has inspected the site on 24.4.2015. Thus, on his own showing the respondent has kept quiet without making any efforts whatsoever to inspect the site and prevent respondent No.3 in the writ petition from raising further construction without obtaining any permission. It is relevant to note in this context that before the contempt case was filed the respondent was kept under suspension, but he has not disclosed this fact in the counter affidavit and described himself as the Deputy Commissioner as if he is still continuing in that office.

9. From the record, I also find serious contradictions in the stand taken by the respondent as regards completion of the construction. In paragraph 4 of the counter affidavit the respondent has averred that in response to the notice issued under Section 452 of the Act, respondent No.3 in the writ petition has submitted his explanation on 20.4.2015 wherein he has stated that he has completed the construction four years ago. The respondent enclosed a copy of the notice issued under Section 636 of the Act, a reading of which shows that he has alleged in the said notice that in spite of the notice issued under Section 452(1) of the Act, respondent No.3 in the writ petition has not submitted his explanation. From this fact, it is evident that respondent No.3 in the writ petition has not submitted his explanation. Thus the respondent has come out with a false version in the counter affidavit to the effect that respondent No.3 in the writ petition has pleaded that he has constructed the house four years back evidently to mislead this Court into believing that no further construction has taken place after the interim order was passed by this Court on 24.10.2014.

10. Admittedly, respondent No.3 in the writ petition has not obtained any building

permission. Though he was proceeding with the construction by the time the writ petition was filed and the interim order was passed, due to sheer negligence and indifference of the respondent, illegal construction of the building was not stopped, as a result of which the construction of the building was allowed to be completed in all respects. The fact that the respondent has failed to inspect the building for nearly eight months after passing of the interim order speaks eloquently of his lack of devotion to his duty and utter lack of respect and regard for the order passed by this Court.

11. In the light of the above facts, I am thoroughly convinced that the respondent is guilty of brazen violation of the order of this Court resulting in his failure to prevent an illegal multi-storied building from coming up. In the light of the above facts, I have no hesitation to hold that the respondent is guilty of wilful violation of the order of this Court, and he is accordingly convicted under Section 12 of the Contempt of Courts Act, 1971.

12. On the quantum of punishment, considering the fact that disciplinary proceedings have already been initiated against the respondent and he is under suspension, I feel that imposition of fine would serve the ends of justice. Accordingly, a sum of Rs.2,000/- (Rupees two thousand only) is imposed on the respondent as fine. The GHMC is directed to make entry of the conviction and sentence of the respondent in his service register.

13. The contempt case accordingly stands disposed of.

C.V. NAGARJUNA REDDY, J

13-11-2015

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