

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Contempt Case No.1893 of 2014

Date: 28-07-2015

Between:

K. Shafiulla

.. Contempt Petitioner

And:

Shivani Dogra I.F.S., Divisional Forest Officer,

YSR Kadapa District and another

..... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Contempt Case No.1893 of 2014

ORDER:

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This Contempt Case is filed under Sections 10 and 12 of the Contempt Courts Act, 1971, alleging violation of the order dated 03-01-2014 in W.P.No.37511 of 2013, whereby this court directed the respondents therein to dispose of the representation filed by the petitioner within a period of two weeks from the date of receipt of the said order.

2. The case of the petitioner is that he is owner and possessor of tractor 1998 model bearing No.AP-16-N-8856, which was hired by Sri Lakshmi

Venkateswara Stone Crusher, Chalamareddypalli, Chinnachowk, Kadapa and while the vehicle on going to crusher site, the said vehicle was seized by the respondent along with compressor on 17-10-2013 and the petitioner filed representation on 24-12-2013 seeking release of vehicle. As no orders are passed thereon, the petitioner filed W.P.No.27511 of 2013 and this Court disposed of the said writ petition directing the respondent to dispose of the representation filed by the petitioner within a period of two weeks from the date of receipt of the order. Pursuant to the said order, the petitioner approached the respondent and submitted copy of the order to then Divisional Forest Officer i.e. the 1st respondent herein and the petitioner received notice from the 1st respondent in Rc.No.230/2013-14, dated 04-02-2014 directing to appear before the office on 10-02-2014 at 11.00 A.M. for conducting detailed enquiry and the petitioner appeared and submitted copy of the order along with the representation. Though a joint inspection was ordered and conducted and in spite of specific direction to dispose of the representation of the petitioner, the respondents have wilfully and deliberately violated the orders in W.P.No.37511 of 2013 and thus, they are liable to be punished under the Contempt of Courts Act.

3. The 1st respondent filed its counter stating, *inter alia*, that show cause notice before admission in the contempt case was received on 29-12-2014 that is after expiry of the stipulated date fixed for hearing on 28-11-2014 and that he is unable to appear before the court and he was transferred to the office of PCCF, Hyderabad on 06-10-2014 and has been working in the PCCF office as DCF (CAMPA) and that he was allotted to the State of Telangana and that the 2nd respondent was instructed and is undertaking to implement the order of this court within 15 days.

4. The 2nd respondent filed his counter stating, *inter alia*, that the petitioner filed W.P.No.37511 of 2013 seeking a direction to the Divisional Forest Officer, Kadapa, to release the vehicle along with compressor and in the meanwhile, he filed a representation on 24-12-2013 requesting the Divisional Forest Officer, Kadapa to release the vehicle along with compressor which was seized on 17-10-2013; that in pursuance of the order dated 03-01-2014 in W.P.No.37511 of 2013, the Authorised Officer-cum-Divisional Forest Officer, Kadapa on 04-02-

2014 issued enquiry notice to the owner of the vehicle and forest officials and fixed enquiry date on 10-12-2014 on which date the forest officials, the owner of crushing machine, the petitioner and his counsel appeared and gave their respective statements; that the petitioner gave his written statement stating that he is owner of the said vehicle and hired the said vehicle to Sri Lakshmi Venkateswara Stone Crushers and on 17-10-2013, while the said vehicle was parked, the same was seized by the forest officials and his vehicle was never involved in any forest offence; that as the remaining witnesses were called absent, the enquiry could not be completed and adjourned the matter on several times i.e. 17-02-2014, 28-02-2014, 14-03-2014, 17-03-2014, 24-03-2014, 28-03-2014, 27-05-2014, 06-06-2014 and during the enquiry, the owner of the vehicle raised a plea that the mine falls in Government land but not forest land and as per GPS survey, it falls in forest land; that the Assistant Director, Survey and Land Records, Kadapa was addressed a letter vide Rc.No.1280/2013/A5, dated 12-06-2014 to depute Surveyor for inspection of the said alleged area for verification whether the area falls in Reserved forest and thereafter, a number of letters were addressed to the Revenue Divisional Officer to depute Surveyor and to direct the Tahsildar to furnish FMB and village map to enable the exact location of mining quarry; the forest officials and Mining officials fixed date for conducting survey and appeared at quarry area on 14-03-2014, 21-03-2014, 28-03-2014 and 27-05-2014, the revenue officials have not appeared nor produced relevant records in which circumstances the forest officials were unable to conduct joint survey to locate the quarry; that from the date of issuing instructions by the court in W.P.No.37511 of 2013, the orders of the court have been obeyed and action was taken at every stage and the petitioner is aware of the facts about the stage of the case; that in pursuance of the orders of this court, the orders of the court are complied with by passing orders vide Rc.No.OR.No.230/2013-14/A5, dated 12-01-2015 to release the vehicle after receiving bank guarantee of Rs.4,00,000/-.

4. Heard the learned counsel for the petitioner and the learned Government Pleader for Forests.

5. On 14-11-2014, notice was ordered to the respondents and when the matter was listed on 02-12-2014, as no orders are passed on the representation of the petitioner for release of vehicle, the contempt case was admitted and ordered

issuance of Form-I notice for appearance of the respondents. Thereafter, on 31-12-2014, on the application of the respondents/contemnors, their presence has been dispensed with and posted the matter for hearing on 22-01-2015. Thereafter, the matter was listed several times i.e. on 27-02-2015, 20-03-2015, 10-04-2015,

01-06-2015, 08-06-2015, 09-06-2015 and 19-06-2015. On 20-03-2015, when the matter is listed, it was represented that the orders of this court have been complied with and on 10-04-2015, the learned counsel for the petitioner represented that the respondents passed orders on

12-01-2015 though direction was issued to pass orders within two weeks from the date of the order. In the counter, the respondents never explained as to why the delay was caused in passing the said order and when the learned Government Pleader for Forests was asked as to why the delay has occurred in passing the order, he sought for time for getting instructions thereon. In spite of specific direction to dispose of the representation within two weeks from the date of the order vide order dated 03-01-2014 in W.P.No.37511 of 2013, the respondents passed the orders after lapse of nearly one year from the date of the order. In the counter, it is stated that the enquiry was conducted lastly on 06-06-2014 and the Assistant Director, Survey and Land Record, Kadapa addressed a letter vide Rc.No.1280/2013/A5, dated 12-06-2014 to depute surveyor for inspection of the area, but the order was passed on 12-01-2015.

The said order is silent regarding what steps the 2nd respondent had taken for dispose of the application as directed by this court. Even the counter also is silent about the said fact and another affidavit filed by the 2nd respondent in the month of June, 2015 is nothing but repetition of the contents of the counter affidavit already filed. Even in the affidavit filed at the time of filing the petition for dispensing with the presence, nothing is stated about delay. In all these affidavits filed by the respondents, there was no proper explanation what had happened after 12-06-2014 on which date the Assistant Director, Survey and Land Records, Kadapa addressed letter to depute surveyor for inspection. Only after filing the contempt case and after receipt of notice in the contempt case, the respondent passed orders on 12-01-2015 that too after two or three adjournments. The 2nd respondent has not even offered apology for delay in passing orders on the representation of the petitioner as ordered by the court,

which shows that the 2nd respondent has deliberately violated the order dated 03-01-2014 in W.P.No.37511 of 2013. The 2nd respondent states that there is a doubt whether vehicle was seized from Government land or forest land. If that being the case, he could have disposed of the representation basing on the material available or he could have sought for extension of time for disposal of the said representation. Thus the respondent has not offered any explanation why the order in the writ petition is not implemented after 12-06-2014. This attitude of the 2nd respondent shows his wilful violation of the orders passed by this court and liable to be convicted. Accordingly, the 2nd respondent is liable to be convicted for violation of the orders dated 03-01-2014 in W.P.No.37511 of 2013.

As such, the 2nd respondent is liable for punishment under Section 12 of the Contempt of Courts Act, 1971, for violation of the order dated 03-01-2014 in W.P.No.37511 of 2013. However, this court feels that imposition of fine of Rs.2,000/- (Rupees two thousand only) on the 2nd respondent would meet the ends of justice instead of sentencing him for imprisonment.

The 1st respondent stated that she was transferred on 06-10-2014, but it is not explained why the order of this court is not implemented even after 12-06-2014 though she was transferred on 06-10-2014. Any how, since it is stated that the 2nd respondent is instructed to implement the order, the contempt case is dismissed against the 1st respondent.

Sri Nagaraju, the 2nd responden-the Divisional Forest Officer, YSR Kadapa District is convicted under Section 12 of the Contempt of Courts Act, 1971 and sentenced to pay a fine of Rs.2,000/- (Rupees two thousand only) within four (4) weeks from today. In default of payment of such fine, the Registrar (Judicial) or the Deputy Registrar shall take action in any one of the ways as provided in Section 421 of the Code of Criminal Procedure, 1973.

A. RAJASHEKER REDDY, J

Date: 28-07-2015

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