

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

CONTEMPT CASE NO.1927 OF 2014

DATED 07th DECEMBER, 2015

Between:

Mohd. Abdul Kareem and others .. Petitioners

and

Sri M. Hari Jawaharlal and others .. Respondents

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

CONTEMPT CASE NO.1927 OF 2014

ORDER

This contempt case was instituted alleging disobedience to the order dated 22.10.2013 passed by this Court in W.P.M.P.No.36047 of 2013 in W.P.No.29029 of 2013. By the said order, this Court directed the respondents in the writ petition to undertake a joint survey of the lands, which were subject matter of the writ petition, in consultation with the survey authorities and with due participation of the writ

petitioners or their authorized representatives. The said exercise was directed to be completed within a time frame and the report thereof was to be placed before the Court on the next date of hearing. The writ petition was accordingly adjourned to 29.11.2013.

This contempt case was filed against four respondents, of whom, two were not parties to the writ petition - M. Hari Jawaharlal, former Joint Collector, Nalgonda District, and Purushottama Raju, Chief Engineer, Nagarjuna Sagar Project (NSP) Left Canal, Nalgonda District, the first and second respondents. The Office therefore raised an objection to the maintainability of the case against them.

However, by order dated 07.11.2014, this Court took note of the Full Bench Judgment of the Madras High Court in **VIDYA CHARAN SHUKLA V/s. TAMIL NADU OLYMPIC ASSOCIATION**, which held to the effect that even third parties to an order, who were bound by law to abide by it, could be hauled up for contempt thereof and overruled the office objection. Thereafter, the Regional Deputy Director, Survey and Land Records, Hyderabad, was impleaded by this Court *suo motu* as respondent No.5 owing to the controversy raised during the course of arguments as to the role played by the survey authorities.

Arguments were advanced at length by Sri Mahmood Ali, learned counsel for the petitioners, learned Government Pleader for Revenue, learned Government Pleader for Irrigation and Command Area Development, Sri P. Sasidhar Reddy, learned counsel for the first respondent and Sri S.R. Sanjeeva Kumar, learned counsel for the fifth respondent. Written submissions were also filed by Sri Mahmood Ali and Sri P. Sasidhar Reddy, learned counsel.

Sri Mahmood Ali, learned counsel, asserted that a joint survey was conducted on 10.03.2014 pursuant to this Court's order dated 22.10.2013. This survey was conducted by the Deputy Director, Survey and Land Records, in the presence of the representatives of both parties. According to the learned counsel, the first respondent, instead of submitting the said report to this Court as directed, issued letter dated 15.07.2014 to the second respondent asking him to verify the area existing within the NSP Camp Colony and confirm the survey report of the Deputy Director, Survey and Land Records, Hyderabad, by duly conducting a joint survey with his departmental persons and submit a detailed report on or before 23.07.2014 so as to take further action in the matter.

Significantly, the aforesaid letter of the first respondent is dated 15.07.2014, long after the time stipulated by this Court in its order dated 22.10.2013. However, this contempt case is not linked to the failure of the respondents to abide by the time stipulations. The contention of the petitioners is that the action of the first respondent in asking the second respondent to verify and confirm the report based on the survey conducted on 10.03.2014 is, in itself, a contumacious act warranting exercise of contempt jurisdiction by this Court.

Sri Mahmood Ali, learned counsel, would contend that pursuant to the letter dated 15.07.2014, another survey was conducted through a private agency which, according to him, further compounds the contempt committed by the first respondent in addressing the letter dated 15.07.2014. Sri Mahmood Ali, learned counsel, would further pray that relief should be granted to his clients in this contempt case by directing the authorities to allot alternate land to them or pay compensation. The learned counsel would further state that pending this exercise, the authorities should be restrained from disposing of any of the land in their possession.

The fifth respondent filed a counter-affidavit stating that the District Collector, Nalgonda, had addressed letter dated 09.01.2014 to the Commissioner of Survey, Settlement and Land Records, to conduct the survey as directed by this Court under the order dated 22.10.2013. Pursuant thereto, he stated that he was instructed under letter dated 01.02.2014 to undertake the inspection and survey. He further stated that on 10.03.2014 he carried out the survey in the presence of the authorities of the Nagarjuna Sagar Project, the Survey Department officials, the Village Revenue Officer, Miryalaguda Village, and a representative of the writ petitioners. The report of his inspection and survey was stated to have been submitted to the concerned office along with a survey sketch.

Sri P. Sasidhar Reddy, learned counsel for the first respondent, would submit that pursuant to the inspection and survey carried out on 10.03.2014, the Commissioner of Survey, Settlement and Land Records, Telangana, furnished a copy of the report thereof along with a sketch to the first respondent under his letter dated 30.06.2014. Upon receipt thereof, the learned counsel stated that the first respondent addressed the letter dated 15.07.2014 to the second respondent asking him to verify and confirm the findings therein as to the area existing within the NSP Camp Colony. The learned counsel would point out that such verification and

confirmation would not amount to conducting a re-survey as the direction of this Court was that a joint survey should be made in consultation with the survey authorities. According to the learned counsel, any survey by the NSP authorities themselves would not be a re-survey in terms of the order as it was only for confirmation for their own purposes that it was undertaken. Learned counsel would further state that this private survey was directed only for ascertaining the facts as per the NSP authorities so as to protect Government land.

Though various points are sought to be raised by the learned counsel and multiple contentious affidavits have been filed by them, this Court is conscious of the fact that the scope and ambit of these proceedings, arising under the Contempt of Courts Act, 1971 (for brevity, 'the Act of 1971'), is limited. Unless willful disobedience to the order passed by this Court is established, the respondents cannot be held to be in 'civil contempt', as defined under Section 2(b) of the Act of 1971.

The order passed by this Court only required that a joint survey be undertaken by the authorities arrayed as respondents in the writ petition in consultation with the survey authorities and with the due participation of the petitioners or their representatives. After completing this exercise within the stipulated time frame, the report of such joint survey was directed to be placed before the Court. It is not in dispute that the time stipulations fixed by this Court as to the conduct of the joint survey and the submission of the report thereof have not been cared for. However, that is not the cause for complaint by the petitioners in the present contempt proceedings. In any event, as there is no evidence placed before this Court that the delay in the conduct of the joint survey and in filing the report thereof before this Court in the writ petition is either willful or deliberate, this Court is not inclined to take heed of the same for the purpose of these contempt proceedings. The only allegation in terms of contumacious conduct that is made against the first respondent is for having addressed letter dated 15.07.2014 to the second respondent requiring him to undertake verification of the area existing within the NSP Colony so as to confirm the findings in the report relatable to the joint survey conducted on 10.03.2014.

However, this Court finds no substance in this allegation. There was no interdiction against any of the authorities from undertaking private inspections or surveys for their own purposes to verify the ground realities, be it before or after the

joint survey which was to be undertaken in consultation with the survey authorities. Had the first respondent sought a survey under the supervision of the survey authorities again, it would undoubtedly have the effect of a re-survey. But that was not the case. The first respondent merely asked the second respondent to undertake a private inspection through his own officers for the purpose of verifying the veracity of the findings recorded in the joint survey which was undertaken by the survey authorities. The justification offered by the first respondent for taking this step is that he wanted to protect Government land. Neither the action nor the motive therefor warrants an inference of contumaciousness in terms of the order passed by this Court on 22.10.2013.

Further, it would not be open to the petitioners, in the guise of their misdirected attack against the first respondent, to enlarge the scope of these contempt proceedings. In exercise of contempt jurisdiction, this Court would ordinarily not pass an order granting relief to the parties. Exercise of jurisdiction under the Act of 1971 is normally for the purpose of punishing contempt of court and no more. Admittedly, the writ petition is still pending and the petitioners, if they have any other grievance, would necessarily have to address it independently, be it in the pending writ petition or by way of a fresh one, as the case may be, and it is not open to them to seek a direction from this Court in the context thereof in these contempt proceedings.

On the above analysis, this Court finds that no cause is made out to draw an inference that any of the respondents have committed contempt of court warranting exercise of jurisdiction under the Act of 1971.

The contempt case is devoid of merit and is accordingly dismissed. No order as to costs.

SANJAY KUMAR, J

07th DECEMBER, 2015

