

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Contempt Case No. 872 OF 2012

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ORDER :

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This Contempt Case is filed alleging violation of orders passed by this Court in W.P.No.20962 of 2011 dated 24.11.2011, wherein this Court has directed the respondents 2 and 3 to follow due procedure of law for evicting the petitioner.

2. It is the case of the petitioner that though interim orders were granted on 26.07.2011 not to resort to demolition of the property of the petitioner without following due process of law, the respondents have demolished part of the property and the main writ petition was disposed of on 24.11.2011. Thereafter, 90% of the petitioner's property was demolished on 27.11.2011.

3. Counter affidavit is filed by the 2nd respondent stating that the respondents, in pursuant to interim orders passed by this Court on 26.07.2011, issued notice dated 11.08.2011 under Sections 452, 461 read with Sections 405 and 406 of the Hyderabad Municipal Corporation Act, 1955 (for brevity 'the Act of 1955') calling upon the petitioner to produce valid title deed along with link documents and valid plan copy under Section 461 of the Act of 1955 and also to show cause as to why action should not be taken against the unauthorized encroachment. However, when the petitioner refused to receive the same, it was served by way of substitute service by affixing the same on the wall of the premises on 12.08.2011 and photographs were also filed evidencing the same. The premises under the occupation of the petitioner is covered by Sy.No.275, which is classified as the land belong to Sri Varaha Lakshmi Nrusimha Swamy Vari Devasthanam Land as per Town Survey Records and the Town Surveyor has filed report evidencing the same. Since the petitioner has not complied with the notice, the affected portion in BRTS road had been removed on 27.11.2011 by following the due process of law, as such, the respondents have not violated the orders passed by this Court. The respondent corporation considered the case for structural compensation to a tune of Rs.1,65,375/-, but the petitioner also refused to accept the same. As such, there is no contempt of the orders passed by this Court, as alleged by

the petitioner and sought for dismissal of the Contempt Case.

4. Heard Sri M.Viswanatham, learned counsel for the petitioner and Sri S.Laxminarayana Reddy, learned Standing Counsel for the respondents 1 and 2.

5. Learned counsel for the petitioner submits that the petitioner has not received notice dated 11.08.2011 alleged to have been issued by the respondent Corporation and that the respondents have deliberately demolished the structure in violation of the orders passed by this Court.

6. On the other hand, Sri S.Laxminarayana Reddy, learned Standing Counsel for the respondents submit that even before final order is passed, by virtue of interim order dated 26.07.2011 in W.P.M.P.No.25507 of 2011, the respondent Corporation issued notice to the petitioner and after following due process only, the affected portions were removed.

7. Admittedly, interim order passed by this Court on 26.07.2011 in W.P.M.P.No.25507 of 2011 in W.P.No.20962 of 2011 and the respondents, in pursuant to the interim order, have issued notice dated 11.08.2011. The 2nd respondent had categorically stated that the respondent Corporation issued notice dated 11.08.2011 in pursuant to the interim order dated 26.07.2011. However, when the petitioner refused to accept the said notice, the same was served by way of substitute service by affixing the same on the premises of the petitioner. The respondents have also filed photographs evidencing the same. When the petitioner failed to comply with the notice issued by the respondents, action has been initiated by following due process of law. As such, it cannot be said that the respondents have violated the orders passed by this Court. Moreover, no reply is filed by the petitioner to the counter affidavit filed by the 2nd respondent disputing the averments in the counter affidavit. In view of the same, there is no contempt committed by the respondents. As such, the Contempt Case is liable to be dismissed.

Accordingly, the Contempt Case is dismissed. The respondents shall pay the structural compensation to the petitioner as stated in the counter affidavit. However, this order will not preclude the petitioner from availing alternative remedy seeking other reliefs.

There shall be no order as to costs. As a sequel thereto,

miscellaneous applications, if any pending in this Contempt Case, shall stand dismissed.

01.09.2015.
KVS

A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

C.C. No.872 OF 2012

Date: 01-09-2015

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