

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CONTEMPT CASE.No.829 of 2014

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ORDER:

The writ petitioner – company instituted this contempt case complaining that the respondents have wantonly and purposefully violated the exparte interim order passed by this Court on 15.04.2014 in WPMP.No.14314 of 2014 in W.P.No.11349 of 2014.

It would be appropriate, hence, to notice the purpose and prayer made by the petitioner – company in WPMP.No.14314 of 2014 and the order passed by this Court on 15.04.2014.

Prayer in WPMP.No.14314 of 2014 reads thus:

“..... in the circumstances stated in the affidavit filed in the W.P. the High Court may be pleased to grant interim injunction restraining the respondents or their instrumentalities from interfering with the petitioners possession over the property to extent of 6 Acres in premises No.1-2-630 (T.S. No.27, Ward-76, Block-B), Bakaram Village, Musheerabad Mandal, pending disposal of WP No. 11349 of 2014 on the file of the High Court.”

Order in WPMP.No.14314 of 2014 dated 15.04.2014, reads thus:

“Dealing with C.C.C.A.No.142 of 1974, a Division Bench of this Court by its Judgment, rendered on 23-08-1978, has recorded its findings in the following words.

“The defendants have not been able to produce a single document to rebut the overwhelming documentary evidence produced on behalf of the plaintiffs in support of their title to the suit land. We have, therefore, no hesitation in holding that the plaintiffs have clearly established their title to the suit land. So far as possession is concerned, firstly the suit land is vacant land and possession follows title. Secondly the plaintiffs have

shown that the suit land was being let out for putting up hoardings and portions were also being leased out for other purposes. As against the aforesaid evidence, there is no evidence to show that the Government or the Municipal Corporation has ever exercised rights of possession over the suit land.”

I am informed that against the said Judgment of the Division Bench of this Court, the State of Andhra Pradesh carried the matter in Appeal to the Supreme Court by preferring S.L.P.No.8867 of 1979 and the same has been dismissed on merits by the Supreme Court on 03-12-1980.

It is the case of the petitioner Company that still the District Collector, Hyderabad, the Revenue Divisional Officer, Secunderabad, the Tahsildar, Musheerabad Mandal, Hyderabad as well as the Police officials at Chikkadpally, are claiming the land as belonging to the Government and on that premises are causing interference with the enjoyment and right to develop the same by the petitioner Company.

In view of the above, without communicating anything in writing to the writ petitioner Company either by the Police or by the District Collector, Hyderabad, no interference shall be caused by them.

Notice.”

It is beyond any pale of doubt that the petitioner prayed for an injunction to restrain the respondents from interfering with the petitioner’s possession over the property to an extent of 6 Acres in premises No.1-2-630. Though the notice of motion, as is required by the writ rules, is delivered in advance, the learned Government Pleader for Revenue could not have made elaborate submissions for want of instructions when the matter was taken up for hearing on 15.04.2014. But however, the Court has adopted a very cautious approach by setting forth as to how the litigation arising out of a civil suit has attained finality by virtue of the orders passed by the Supreme Court on 03.12.1980. Further, instead of granting an ex parte injunction the Court directed the police or the District Collector, Hyderabad not to cause any interference to the possession of the writ petitioner – company without communicating anything in writing to it.

Contrary to this basic requirement, Smt.G.Sunitha, Mandal Revenue Inspector, Musheerabad Mandal, Hyderabad has lodged a complaint with the Gandhinagar Police Station, Hyderabad on 02.05.2014, which complaint is registered as

F.I.R.No.182 of 2014.

The contents of the complaint read thus:

“Respected Sir,

Sub: Illegal Construction in D.B.R.Mills which is
 Government Land – Requested for Police
 Protection – Reg.

I, Smt G.Sunitha working as M.R.I., Musheerabad Mandal and along with V.R.Os of Musheerabad Mandal went for regular inspection of Government Land in that today i.e. on 02.05.2014 visited D.B.R.Mills and we saw some labour working in that area in said property which is a Government land in Sy.No.157/1, 158/2, Etc., W.P.No.11349 of 2014 said suit confirmed only to the extent of 6284 Sq.Yrds in Sy.No.160, 160/1, 160/27 and 161/7. But Sri Raj Kumar Malpani and his workers trespassing in D.B.R.Mills lands in Sy.No.157/1 to 3, 158/1 & 2 and 159/1 of Bakaram Village which is purely a Government Land. We stopped the work and dispersed the labour, so we are requesting you to take relevant action against the above said property and register the FIR against Raj Kumar Malpani, the property who is indulging in grabbing of Government land and trespassers in the Government land.

Hence, I request you to provide police protection and necessary legal action against Raj Kumar Malpani.

Thanking You,

Yours Faithfully,

G.Sunitha

MRI, Musheerabad Mandal.”

The contents of the complaint are explicitly clear, in that the Mandal Revenue Inspector (MRI) noticed on 02.05.2014 some construction labour working at the site in question and hence the work was stopped and got dispersed the labour and hence police were requested to register a crime of trespass and grabbing of Government Land by the petitioner – company. Most crucially, the following sentence found in the complaint discloses the purpose behind the exercise, which reads thus:

“..... WP No.11349 of 2014 said suit confirmed only to the extent of 6284 Sq.Yrds in Sy.No.160, 160/1, 160/27 and 161/7.....”

From this statement, it is evident that the MRI is thoroughly conscious of the petitioner company instituting W.P.No.11349 of 2014 and the order passed by this Court on 15.04.2014 in WPMP.No.14314 of 2014. Notwithstanding the same, she has proceeded to conclude that the above writ petition is confined (wrongly mentioned as confirmed) only to 6284 Sq.Yrds of open site.

The District Collector, Hyderabad District has filed a detailed counter-affidavit in this contempt case. In paragraph No.6, it is brought out that a vacate stay petition bearing No. WVMP.No.1255 of 2014 is moved in the matter asking the exparte interim order passed on 15.04.2014 to be vacated and that the said vacate stay petition is still pending.

The Collector would also set out that the land covered by the defunct DBR Mills falling in Sy.Nos.151/1, 157/2, 157/3, 158/1, 158, 158/2 and 159/1 of Bakaram Village of Musheerabad Mandal is classified as Inam Land and is vested with the Government on abolition of Inams. Thereafter, a reference was made to the Civil Suit OS.No.172 of 1970 from out of which CCCA.No.142 of 1974 arose and then a reference was also made to the order of the Supreme Court in SLP (Civil) No.8867 of 1979. Thereafter, the following statement is made:

“It is pertinent to submit that the said suit Appeal and SLP were confined to an extent 6284 Sq.Yards comprising in Sy.No.160, 160/1, 160/27 and 161/7, but not in respect of schedule land in the writ petition.”

In Paragraph No.13 of the counter-affidavit, the Collector has brought out that the petitioner suppressed the fact that he has applied for No Objection Certificate and that the said No Objection Certificate was rejected by the Collector on 03.10.2009 on the ground that the applicant or his vendor have not proved their title over the land in Sy.No.157/1 etc and the main WP.No.10801 of 2005 is still pending in this Court. The said W.P.No.10801 of 2005 is stated to have been filed by the predecessor of the petitioner claiming land of an extent of Ac.26.00 gts. Against the rejection of No Objection Certificate the petitioner filed W.P.No.23132 of 2012 and

this Writ Petition is also pending. Therefore, in paragraph No.17 the Collector would set out that the petitioner has approached this Court with unclean hands and obtained the order on 15.04.2014 resorting to misrepresentation and suppression of facts.

In paragraph No.18, it was further set out by the Collector that the writ petitioner taking advantage of the general elections and the fact that the entire revenue establishment of the District is busily engaged in the work related thereto, filed this Writ Petition and secured the exparte Interim Order and therefore with a view to protect the interest of the State Government, the complaint has been lodged against the petitioner company with the police.

Heard Sri D.Prakash Reddy, learned Senior Counsel on behalf of Sri Sri Satyanarayana Rao Adiraju, learned counsel for the petitioner and Sri K.Ramakrishna Reddy, learned Advocate-General for the State of Telangana.

Sri D.Prakash Reddy, learned Senior Counsel would submit that the petitioner has never suppressed any of the facts as alleged by the District Collector, and on the other hand the history about the previous litigation concerning this land was brought to the notice of the Court and the Court has referred the same in the order dated 15.04.2014 and thereafter finding prima-facie case in favour of the petitioner – company passed the order on 15.04.2014 and the respondents have purposefully violated the said order. Sri D.Prakash Reddy, learned Senior Counsel, would submit that the respondents have deliberately chosen to violate the orders passed by this Court after coming to know of the said order and hence they deserve to be punished by this Court.

Sri Ramakrishna Reddy, learned Advocate-General for the State of Telangana, has made elaborate submissions in the matter. The main theme propounded by the learned Advocate General is that the acts of the respondents are absolutely bonafide and that they acted in discharge of their duty to protect valuable Government property and therefore no malicious intent can be attributed to them and when the Government Property worth several crores of rupees is sought to be grabbed unjustly by the petitioner – company, the respondents have acted in the matter and in that process they have not violated the order of this Court dated 15.04.2014. This apart, the respondents have taken appropriate measures to protect the interest of the State; hence no fault would lie at their door step.

Sri Ramakrishna Reddy, learned Advocate-General, has further contended that seldom the writ Court would have entertained or decided a title dispute of an immovable property in a writ proceeding. For deciding title of land, evidence both documentary and oral has to be obtained and only after careful assessment of the same, such a dispute can be resolved. Therefore, proceedings under Article 226 of the Constitution of India are ill suited for that purpose.

Sri Prakash Reddy, learned Senior Counsel, in reply would point out that there is no quarrel with the proposition that title disputes of immovable properties cannot be resolved for the first time in a writ proceeding. But that does not mean that the State can go on interfering with property rights of the citizens. There must be fairness and reasonableness before the State and its authorities choose to interfere with the right of the property of a citizen. Lest no right in property can be enjoyed by a citizen as desired by him and the State's interference can go on unchecked.

The Government Properties are required to be protected very jealously and they should be guarded carefully too. Properties owned and held by private citizens will be protected by taking recourse to effective measures by them. They would also be putting up adequate resistance against any illegal attempts. They would also maintain appropriate vigil against any wrong doers. In contrast, the State will be assuming that no person would run the risk of taking law into his hands and trespass into Government lands, effective measures to protect the Government properties may not have been put in place. This apart the precious financial resources available at the State's disposal would be preferred to be spent first for undertaking needy welfare measures for the overall wellbeing of the citizens of the State. Expenditure for protecting the Government properties, therefore rightly, occupies least priority. However, with the increased values of urban properties and the scarcity of land is sometimes providing impetus for some to quietly occupy and appropriate the Government lands.

But in the instant case, the petitioner-company has traced its title to the land in question over a long period of time travelling back to the princely State of Hyderabad. The documents of title are examine and looked into by Courts to get satisfied that there exists a valid title. Sri Prakash Reddy, learned senior counsel, is therefore right in his submission that the earlier Civil Suit has been confined only to the extent of 6284 Sq.yards, over which extent of land interference was caused at

that point of time. If a Division Bench of this Court could find complete justification behind the claim of 6284 Sq.Yrds, the finding in that regard was also approved on merits by the Supreme Court, a prima-facie case is made out with regard to 6 Acres of land claimed by the petitioner company now in the writ petition and therefore the allegations made against the petitioner – company by the District Collector appear to be ill-founded.

Sri Prakash Reddy, learned Senior Counsel, is certainly right to this extent, at least. The present writ petition is not confined to 6284 Sq. Yrds of open site. The respondents having lost their appeal before the Supreme Court way back in the year 1980, could not have picked up courage to violate the orders of Supreme Court after three decades of time, by interfering in any manner with the possession of that land of 6284 Sq. Yrds. Therefore, the question of filing a writ petition concerning the said 6284 Sq. Yrds of land would never have arisen. When the interference is now born to the other extent of 6 Acres of land, the present writ petition had to be filed before this Court.

The order passed by this Court made it clear that without communicating anything in writing to the petitioner – company, no interference shall be caused. However, the contrary was what exactly had happened in the instant case. The Mandal Revenue Inspector arrived at the site in good strength, dispersed the construction labour and prevented the petitioner – company from undertaking developmental activity there and thereafter proceeded to the Gandhinagar Police Station and lodged a complaint which is promptly registered by the police as F.I.R.No.182 of 2014 and thus brought pressure from the police as well. So that the petitioner – company will think twice before entering upon the land in question. This action of the respondents is clearly in violation of the orders passed by this Court on 15.04.2014. There was no explanation whatsoever offered in this regard.

If the District Collector, Hyderabad District is very keen to establish his bonafidies, he ought to have pressed for hearing of the vacant stay petition moved by him. There does not appear to be any such attempt made by him. Therefore, the assertion that the respondents have acted bonafide in the matter is suspect.

Should, then every violation of the order passed by this Court invariably result in punishment to be imposed against the respondents including deprivation of liberty

or should this Court view the matter less seriously and modulate the relief properly, is the question up on my mind.

The respondents may have been driven by the commitment to protect a very valuable property, which they thought it belonged to Government and which claim is doubtful as there is any amount of debate generated at the Bar with regard to the title of the land. It is equally true that the predecessor-in-interest of the petitioner has established its title to the extent of 6284 Sq.Yrds, which is forming part of a larger extent of land. The decision of this Court in CCCA.No. 142 of 1974 and the decision of the Supreme Court in SLP preferred by the State, are absolutely clear in that respect. If the Predecessor – in – interest could establish his title so clearly in respect of 6284 Sq. Yrds, with regard and reference to very same title deeds, would it be fair to suspect that based upon the very same title deed, they lack title to the remaining extent of land?

I would think it appropriate to reserve final opinion in that regard for the present, as the writ petition is still pending. Perhaps, respondents ought to have been cautious and careful while dealing with the issue on hand instead of routinely viewing that the petitioner – company is making an attempt to grab valuable Government property.

But however, I am more inclined to accept the suggestion made by Sri Ramakrishna Reddy, learned Advocate-General for the State of Telangana, to view the conduct of the respondents as an anxiety on their part to protect the valuable Government land and hence I do not consider that it is a fit case to proceed any further to deprive their liberty.

On behalf of the petitioner – company, an undertaking is furnished to this Court that no equities, either special or general will be pressed any time later on, on the ground that certain developments have been carried out over the land in question, in case the petitioner – company ultimately fails in the writ petition. Hence, by recording the said undertaking, the interest of the State can get protected adequately.

Though I am convinced that the respondents are guilty of acting in violation of the orders passed by this Court on 15.04.2014, but I do not prefer to penalize them, except to warn them not to repeat such an error henceforth and also direct the respondents – police not to act any further in pursuance of Crime No.182 of 2014 of Gandhinagar Police Station until appropriate orders are passed by this Court in

W.P.No.11349 of 2014.

Accordingly, the contempt case stands disposed of. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

01.05.2015.

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