

COCP No.1892 of 2014

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**COCP No.1892 of 2014
Date of decision:15.05.2015**

Joginder Singh Verma

...Petitioner

Versus

Rajesh Verma

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. K.B.Raheja, Advocate,
for the petitioner.

Mr. Rajesh Verma, respondent in person.

Rakesh Kumar Jain, J.

The petitioner, who is father of the respondent, initiated contempt proceedings against him under Sections 10/12 of the Contempt of Courts Act, 1971 (hereinafter referred to as the “Act”), for the willful disobedience of the order dated 05.05.2014 passed by this Court in CWP No.742 of 2014.

The petitioner, aged about 72 years, is the owner of House No.426, Sector-14, Faridabad, allotted to him by the Haryana Urban Development Authority in the year 1970. The six yearly installments were paid by the petitioner and he built the house after taking house building advance from his department in the year 1986-87. The loan amount was also repaid by the petitioner from his salary.

The petitioner made a complaint to the Maintenance Tribunal

COCP No.1892 of 2014

[2]

against the respondent under the Maintenance & Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred to as the “Act of 2007”) for the alleged misbehaviour and torture by the respondent and his wife and also prayed that the respondent, who is occupying one portion of his house, may be asked to vacate it. The Maintenance Tribunal, Faridabad, vide its order dated 20.03.2013, directed the respondent to vacate the house in question by 10.04.2013. The respondent filed the statutory appeal before the District Collector and First Appellate Court under the Act of 2007. The said appeal was dismissed on 29.10.2013, holding that the property in question is the self-acquired property of the petitioner and not the ancestral one, as alleged by the respondent. The petitioner and his wife are heart patients and old who have a right to live their life peacefully in their house. The respondent challenged both the orders dated 20.03.2013 and 29.10.2013 before this Court by way of filing CWP No.742 of 2014, in which the petitioner was arrayed as respondent No.4 and an interim order was passed on 03.02.2014, which reads as under:-

“Parties are present in Court today.

Rs.10,000/- towards litigation expenses have been given to respondent No.4. It has been mutually agreed between the parties that the petitioner shall vacate the premises in the last week of April, 2014 after the conclusion of the exams of his children and he states that papers with regard to the shop which were given by respondent No.4 be handed over to him. This request of

COCP No.1892 of 2014

[3]

the petitioner has been agreed to by respondent No.4 and he states that he shall return the papers when the house is vacated.

Adjourned to 05.05.2014 to enable the parties to resolve the issue amicably.

Interim order dated 17.01.2014 to continue.”

The writ petition was finally disposed of on 05.05.2014 in the following manner:-

“Challenge in this petition is to the order dated 20.03.2013 (Annexure P-2), passed by the Maintenance Tribunal, Faridabad, whereby the petitioner has been directed to vacate the house in question.

Parties are present in the Court today. Learned counsel for respondent No.4 has given papers of the shop to the petitioner. The petitioner has given an affidavit dated 05.05.2014 in the Court stating therein that he will vacate the premises in question within two months.

In view of the above statement/affidavit given by the petitioner, no further orders are required to be passed in this petition.

Disposed of.”

Since the respondent did not vacate the house in question, therefore, the petitioner has filed this petition for initiating contempt

COCP No.1892 of 2014

[4]

proceedings against him for violation of the order dated 05.05.2014, in which notice of motion was issued on 24.07.2014 for 05.09.2014 and the respondent was directed to be present in the Court on the next date of hearing. However, on 05.09.2014, it was recorded that the notice issued to the respondent was not received back served or otherwise and he was directed to be served again with fresh notice for 16.10.2014. On the next date of hearing, when the case was listed on 04.12.2014, memo of appearance was placed on record on behalf of the respondent but the counsel did not appear and in the interest of justice, the case was adjourned to 10.12.2014. On 10.12.2014, since no-one put in appearance on behalf of the respondent and it was felt by the Court that the respondent was deliberately not appearing in the Court despite service, therefore, bailable warrants in the sum of ₹50,000/- were ordered to be issued against the respondent to secure his presence in the Court. Ultimately, the respondent appeared in person and the Court ordered that the respondent would remain physically present on the adjourned date also. Thereafter, the respondent kept on appearing and on 06.04.2015, he stated in the open Court that he would not abide by the undertaking given by him and would not vacate the demised premises. The Court tried to make him understand the consequences of his disobedience of the order dated 05.05.2014 and was again asked as to whether he is ready and willing to abide by the order of this Court dated 05.05.2014 to which he has submitted that he would not vacate the demised premises. Accordingly, the case was heard on merits and the judgment was reserved.

Civil contempt, as defined under Section 2 of the Act, means willful disobedience of any judgment, decree, direction, order, writ or other process of a Court or willful breach of an undertaking given to a Court. In contempt proceedings, unlike the trial for a criminal offence, no oral evidence is recorded and the facts are to be gathered and believed on the basis of the affidavits furnished by the parties and though the procedure of trial for contempt is summary in nature, but its consequences are serious as it entail not only the pecuniary punishment upto ₹2,000/- but also a sentence upto the period of 6 months. In order to constitute the civil contempt, the essential ingredient is “willful disobedience” and the willful connotes “purposeful” and clear intention to flout. The jurisdiction of contempt is provided to uphold the majesty of law and dignity of judicial system so that the order passed by the Court are followed by the party against whom it is passed, who may not be allowed to violate it with impunity.

The respondent gave an affidavit on 05.05.2014 in the Court, stating therein that he would vacate the premises in question within 2 months. Believing his statement made by way of affidavit, the writ petition filed by the respondent was disposed of by this Court as no further order was required to be passed in it. After the expiry of the period of 2 months, which literally expired on 05.07.2014, the contempt petition was filed on 21.07.2014, in which the respondent was asked to be present in person at the time of issuance of notice of motion, but he did not put in appearance deliberately till his presence was sought to be secured by the Court by using coercive method by issuance of bailable warrants in the sum of ₹50,000/-.

COCP No.1892 of 2014

[6]

Ultimately, the respondent made a statement on 06.04.2015 that he would not abide by the undertaking given by him and would not vacate the premises in question. Still, this Court adjourned the case for the next date, practically advising the respondent to leave his adamant attitude, otherwise he may have to face conviction and sentence because he would not be leaving any alternative with the Court, but even on the adjourned date, he stuck to his stand that he would not honour his commitment/undertaking given to the Court on 05.05.2014 by way of affidavit and would not vacate the demised premises.

There is no doubt that the stubborn attitude of the respondent is contemptuous. Thus, in view of the facts and circumstances of the case, discussed here-in-above, I am of the opinion that the respondent-contemner has a scant regard for the order of this Court as he does not want to honour his undertaking given to this Court. He has clearly attempted to obstruct the administration of justice and cannot escape his liability for the willful disobedience on his part. He is, therefore, held guilty for committing contempt of the Court and is ordered to be punished to undergo simple imprisonment for six months and to pay a fine of ₹2,000/- and in case of default of payment of fine, he will further undergo imprisonment for one month. This order will become operational after the expiry of three months, during which period the respondent may avail appropriate legal remedy available to him and/or purge the contempt.

It is further directed that the house in question of the petitioner, in occupation of the respondent, shall be got vacated by the Maintenance

COCP No.1892 of 2014

[7]

Tribunal, Faridabad, who had passed the initial order dated 20.03.2013.

The Superintendent of Police, Faridabad is also directed to provide all sorts of help to the Maintenance Tribunal for the compliance of this order.

May 15, 2015
vinod*

(Rakesh Kumar Jain)
Judge