

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.17901 of 2006

ORDER:

This writ petition is filed under Article 226 of the Constitution of India complaining that the respondents are not implementing the order, dated 13-02-2003 in W.P.No.11251 of 2000.

Heard, Sri A.S.C. Bose, learned counsel for the petitioner, Sri G. Narender Reddy, learned Standing Counsel for respondents 1 and 2 and learned Government Pleader for Revenue for respondents 3 and 4.

Earlier the petitioner herein filed W.P.No.11251 of 2000 assailing the action of the respondents in not implementing the resolution, 03-02-1979 for executing the deed of transfer for Ac.0-14 guntas in Sy.No.33, situated at Choppadandi village and Mandal, Karimnagar District. This Court allowed the said writ petition on 13-02-2003, directing the respondents to take immediate steps for implementation of the resolution, dated 03-02-1979.

Complaining willful disobedience of the said orders passed by this Court the petitioner herein filed C.C.No.1286 of 2005 before this Court and the said order reads as under:

“The petitioner filed Writ Petition No.11251 of 2000 seeking a Writ of Mandamus declaring the action of the respondents in not implementing resolution dt.3.2.1979 for executing the deed of transfer for land admeasuring Ac.0-14 gts. In S.No.33 of Choppadandi Village and Mandal, Karimnagar District, as illegal and arbitrary. By order dt.13.2.2003 this Court allowed the Writ Petition directing the respondents to take necessary action for implementation of resolution referred to hereinabove. In this Contempt Case, the petitioner alleges that though he has been pursuing the matter with Gram Panchayat and though he has issued notice on 30.6.2005, the judgment of this Court has not been implemented and thereby disobeyed the orders of this Court.

As held by the Supreme Court in Pallavseth v. Custodian¹, the Contempt Case is barred by limitation as the Contempt Case is filed on 7.11.2005 whereas the judgment of this Court is dated 13.2.2003. The Supreme Court in Pallavseth case (supra) has held that so as to be within limitation, a Contempt Case either must have been filed before one year or this Court must have taken cognizance of the case before the expiry of one year. It is appropriate to extract the following passage from the judgment.

Action for contempt is divisible into two categories, namely, that initiated suo motu by the Court and that instituted otherwise than on the Court's own motion. The mode of initiation in each case would necessarily be different. While in the case of suo motu proceedings, it is the Court itself, which must initiate by issuing a notice. In other cases initiation can only be by

¹ AIR 2001 SC 2763=(2001) 7 SCC 549

a party filing an application. In our opinion, therefore, the proper construction to be placed on Section 20 must be that action must be initiated, either by filing an application or by the court issuing notice suo motu, within a period of one year from the date on which the contempt is alleged to have been committed.

The Contempt Case is therefore dismissed.”

After dismissal of the said Contempt Case the present writ petition came to be filed praying for implementation of the order, dated 13-02-2003 passed in W.P.No.11251 of 2000.

Counter-affidavit deposited by the Panchayat Secretary, Choppadandi village is filed. Wherein it is stated in paragraph No.2 that resolution, 03-02-1979 passed by the Gram Panchayat was cancelled by the District Collector, Karimnagar before 1987.

No reply affidavit is filed disputing the said averments.

It is significant to note that though the Gram Panchayat filed its counter as long back as on 25-09-2006 categorically stating that the resolution of Gram Panchayat was cancelled prior to 1987 the same is not disputed by the petitioner by way of filing any reply. In absence of any reply it has to be construed that the said averment touching the cancellation of resolution is required to be taken as true. In absence of any

challenge as to the subsequent cancellation by the District Collector no relief can be granted in the present writ petition.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESA SAI, J

November 22, 2016

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