

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CONTEMPT CASE No. 2353 of 2015

Date :21.4.2016

Between :

Mamilla Anand Kumar s/o M.Mukund Ji,
Aged about 32 years, Occu: Business,
r/o. H.No.2-3-645/4/A/51/1, Prem Nagar,
Amberpet, Hyderabad.

.... Petitioner/petitioner

And

Dr. Janardhan Reddy, Commissioner,
Greater Hyderabad Municipal Corporation,
Tank Bund Road, Hyderabad and others.

.... Respondents/respondents

The Court made the following:

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ORDER:

Petitioner instituted writ petition alleging that in spite of complaining to the Municipal Corporation to stop illegal constructions being made by the 4th respondent in the writ petition, no action was taken and illegal and unauthorised construction was not removed and sought for consequential directions.

2. When the writ petition was taken up for consideration on 25th August, 2015, at the request of 4th respondent matter was adjourned by recording the undertaking that no further construction would be taken up until further orders.

3. The 4th respondent herein filed W.P.No. 18077 of 2015 alleging that municipal corporation was taking steps to demolish the construction of the building undertaken by her in the subject property without following due process. This Court disposed of the said writ petition by order dated 29.6.2015 granting liberty to the petitioner therein (4th respondent in the instant writ petition) to file appeal under Rule 11 of the A P Regulation and Penalisation of Unauthorised Constructed Buildings and Buildings Constructed in Deviation of the Sanctioned Plan Rules, 2007 (for short the Rules, 2007) against the decision dated 5.6.2015 within two weeks and on filing of the appeal, the Appellate Authority should consider and pass appropriate orders as warranted under law. This Court directed continuance of status quo as ordered on 19.6.2015.

4. Alleging that the undertaking given to this Court in the instant writ petition and the order of status quo granted in writ petition No. 18077 of 2015 filed by 4th respondent is violated and 4th respondent in the instant writ petition continue to undertake construction of the building, this contempt case is filed. Along with the contempt petition, petitioner also enclosed photographs taken in November, 2015 to show that 4th respondent continued to undertake construction after the status orders and undertaking given by

him.

5. On behalf of the respondent corporation, counter affidavit is filed. Learned standing counsel categorically states that the respondent corporation has taken all the steps to stop the illegal construction being made by 4th respondent; notices were issued and demolition was also taken up substantially affecting the subject premises. Learned standing counsel also brought to the notice of this Court that status quo order was granted in O.S. No. 1927 of 2015 on the file of the VI Junior Civil Judge, City Civil Court, Hyderabad filed by the 4th respondent. Even said status quo order is violated by 4th respondent. However, no further steps are taken by the respondent corporation, in view of the order of status quo granted by Court of VI Junior Civil Judge, City Civil Court, Hyderabad and that as soon as status quo orders are vacated, appropriate steps would be taken.

6. In the counter affidavit filed by the 4th respondent, she only seeks to justify the action of undertaking construction contrary to the orders of status quo and undertaking, on the ground that the existing school building was in a dilapidated condition and there was an urgent need to shift the school to another premises and in view of the compulsions, she has completed construction. Instead of realising grave illegality committed by her, 4th respondent sought to attack the petitioner on personal grounds.

7. In pursuance to the earlier directions of this Court, the respondent corporation also filed latest photographs of the subject premises. The photographs filed by the respondent corporation clearly disclose that 4th respondent violated the orders of the Courts and undertaking given by her before this Court in constructing the building. The same is also admitted by 4th respondent in the counter affidavit. The photographs disclose completion of construction of the building in all respects. Respondent Corporation also filed photographs taken earlier when corporation demolished portion of the building. Comparison of the photographs would disclose that contrary to the status quo orders granted by this Court in W.P. No. 18077 of 2015, orders passed by VI Junior Civil Judge, City Civil Court, Hyderabad and the undertaking given before this Court, the 4th respondent has completed the

building. In fact portions demolished by Greater Hyderabad Municipal Corporation were also reconstructed.

8. Learned counsel for 4th respondent fairly submits that action of the 4th respondent is unpardonable but seeks to support her action on the ground that 4th respondent was compelled to complete the construction of the school only to see that students do not suffer and further submits that the students prosecuting studies in the school are from poor families and 4th respondent is doing lot of social service. The area surrounding the school building is a slum and 4th respondent is helping the children of slum to have quality education. Confronted by grave illegality, he submits that 4th respondent is apologetic of her conduct.

9. It may be true that the 4th respondent is helping children belonging to down trodden communities living in slum but that cannot be a ground to flout the law and violate the orders of this Court. 4th respondent is a graduate; running schools for the last 15 years; it appears she is conversant with the legal proceedings and building regulations. She is conscious that her actions are in violation of the Court orders and undertaking given by her. Her conduct requires stringent action. In view of the admitted facts, 4th respondent is found guilty of the contempt of this court and is liable for punishment under Section 12 of the Contempt of Courts Act, 1971.

10. At this stage, learned counsel for 4th respondent stated that in all humbleness 4th respondent prays for taking a lenient view and prays for pardoning her. 4th respondent who is present in Court, having realised that she has committed grave offence of violating orders of the Court and undertaking given to the Court, expressed her remorse and gave an unconditional apology. In rectitude of her conduct, voluntarily offers to contribute rupees two lakhs to Greater Hyderabad Municipal Corporation to utilise the same for provision of civic amenities in the locality for the benefit of local people and prays to take a lenient view and pardon her and relieve her of the contempt proceedings. The statement of the 4th respondent is taken on record.

11. Learned counsel for petitioner submits that her actions deserve stringent action. However, he submits that in view of 4th respondent's offer to contribute money for social cause, he has nothing further to state, but requests the court to leave open all other issues on illegal/ unauthorised construction made by 4th respondent.

12. Having regard to the apology expressed by 4th respondent and her offer to contribute rupees two lakhs for social cause, a lenient view is taken. However, the 4th respondent is warned to be careful and shall not indulge in any such activities in future. She is directed to pay an amount of rupees two lakhs, as agreed, by way of Demand Draft in favour of 'The Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad' within a period of three weeks. The amount shall be under the direct custody of the Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad and he shall ensure that the above amount is spent for provision of basic facilities in Prem Nagar Colony, Amberpet, Hyderabad. As suggested by learned Standing Counsel for Greater Hyderabad Municipal Corporation, the Commissioner shall explore the possibility of constructing /erecting drinking water tank for use of the people living in the colony. Additional expenditure, if any, may be incurred by Greater Hyderabad Municipal Corporation for making such provision. The water tank shall be constructed as expeditiously as possible, preferably within a period of four months. If there is still balance money out of contribution made by 4th respondent the same shall be utilised for development of the colony. It is also made clear that this order does not come in the way of respondent Corporation taking further course of action in accordance with law. It is also open to the petitioner to work out his remedies as available to him in law on any other grievance.

13. Accordingly, the contempt case is disposed of. No costs. Miscellaneous petitions, if any pending, are closed.

P.NAVEEN RAO,J

DATED 21.4.2016

TVK

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