

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

Contempt Case No. 1481 of 2015

% 31.03.2016

Smt. R. Radha

...Petitioner

vs.

\$ Sri V. Prasad,
Asst. City Planner,
Circle No.18, GHMC,
Secunderabad.

... Respondents

!Counsel for the Petitioner : Sri Kowturu Vinayakumar

^Counsel for the Respondent : Sri P. Keshava Rao

<Gist :

>Head Note :

? Cases referred

1. 2008 CrI.L.J (NOC) 327 (BOM.)

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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Contempt Case No. 1481 of 2015

Between:

Smt. R. Radha

....Petitioner

and

Sri V. Prasad,
Asst. City Planner,
Circle No.18, GHMC,
Secunderabad.

....Respondent

ORDER PRONOUNCED ON

: 31.03.2016

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : YES
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : YES
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : YES
see the fair copy of the Judgment?

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Contempt Case No.1481 of 2015

Order:

This Contempt Case was filed alleging non-implementation of the order dated 08.12.2014 passed by this Court in WP No.11968 of 2008.

2. The said Writ Petition was filed challenging the notice issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955, when the application of the petitioner for regularisation under building penalization scheme was pending.

3. The said notice was issued at the instance of the third respondent. When the writ petition came up for consideration, learned Standing Counsel appearing for the second respondent stated that the second respondent passed orders on 25.04.2012 regularizing the deviated construction and in those circumstances the third respondent sought permission of the Court to challenge the said orders in an appeal before the appellate authority. Accordingly, the writ petition was disposed of on 8-12-2014, giving liberty to the third respondent to file an appeal against the orders of regularization dated 25.04.2012 within a period of two months and the appellate authority was directed to pass orders within a period of two months thereafter.

4. The petitioner herein states that she filed an appeal before the respondent within time on 20.01.2015 and the respondent also issued a notice on 28.02.2015 indicating that hearing would be conducted on 28.02.2015. When no orders were passed thereon after conducting hearing, the petitioner issued a notice through her counsel on 06.06.2015 and in spite of receipt of the said notice, the respondent has not chosen to pass orders. In those circumstances, the present Contempt Case was filed on 27.07.2015.

5. When the Contempt Case came up before this Court, notice before admission was ordered on 14.08.2015 and in spite of three adjournments no counter was filed on behalf of the respondent. Having left with no alternative, the Contempt Case was admitted on 30.10.2015. The respondent appeared in person pursuant to the notice.

6. A counter affidavit was filed by the respondent on 25.11.2015 admitting that an appeal was preferred by the petitioner on 20.01.2015 and the date of hearing was fixed on 28.02.2015. He also stated that the petitioner attended the hearing on 28.02.2015, but the orders could not be passed as town planning staff were drafted to work as Nodal Officers for collection of property tax and they were busy with Swachh Hyderabad programme. Ultimately, the orders were passed on 23.11.2015 in proceedings No.2084/TPS/C-18/NZ/GHMC/2015, before filing counter in the present contempt case, rejecting the appeal and the orders were served on the petitioner in person.

7. Thus, the orders, in compliance of the orders of this Court dated 08.12.2014 were passed only on 23.11.2015, when the Contempt Case was heard. In the circumstances, it has to be seen whether the orders passed by the respondent are in compliance with the orders of this court or would amount to wilful disobedience of the orders of this Court inviting action under the provisions of Contempt of Courts Act or inherent powers of this court for punishing a violator of the orders of this court.

8. There is no dispute that this Court fixed time limit of two months for preferring an appeal by the petitioner and disposal of the appeal within two months thereafter. The petitioner preferred the appeal on 20.01.2015 and the appeal was also heard on 28.02.2015, but no orders were passed. There was no response to the notice issued before admitting the present Contempt Case and no reason is given in the counter affidavit. Even after admitting the Contempt Case also no order was passed. Only at the fag end, the order was passed rejecting the appeal. We are not on the result of the appeal or merits of the case. This Court is concerned with the attitude exhibited by the Officer who is holding the post of Assistant City Planner in the Municipal Corporation.

9. Learned Counsel for the Contemnor has relied on a decision of the Bombay High Court reported in **V.D. Kavatkar v. Fatima Huseni Radhapurwala**^[1], wherein on the facts of the said case apology was accepted.

10. It has become a common practice in majority of the cases to ignore the time fixed by this Court for compliance of the orders. The aggrieved writ petitioners had to once again come to this Court alleging violation of the orders. The Contempt Cases are being fought as if they are original proceedings and the adjournments are being sought. It is a common plea of the officers that they have taken charge recently or that they are busy with their other official duties. This Court is well aware that no officer will sit idle in the office only waiting for orders of this Court to be implemented. This Court is working hard to redress the grievances of the petitioners and depending on the facts of each case has been fixing the time limits for disposal of the cases by the concerned officers when the matters were remitted to them. If there was any inconvenience on the part of the officers, it is always open to them to approach this Court seeking enlargement of time for implementation. The peculiarity of this case is that the respondent who is holding the post of Assistant City Planner which is above the post of a Section Officer in GHMC did not care for a notice issued before admitting the present contempt case. He did not explain the reason for his conduct in his affidavit. No reason came forward in his affidavit indicating the reason for non-passing of an order after hearing the matter on 28.02.2015. These facts would clearly show that the respondent has utter disregard to the orders of this Court or to the time stipulated in the order. The apology tendered by him in the affidavit is a mere pretence and in a routine manner. He should have shown his *bona fides* by answering to the notice issued by this Court before admitting the case or by expeditiously passing an order immediately.

11. This Court, thus, in the facts and circumstances of the case, has no hesitation to hold that the respondent has disregarded the orders of this Court and scant respect to the majesty of this Court. This is a fit case to send the respondent to civil prison for his callousness but imposes an exemplary fine of Rs.25,000/- (Rupees Twenty Five Thousand only) to be payable from his pocket to the Telangana State Legal Services Authority for his disobedience to the order of this Court dated 08.12.2014. The said amount shall be paid within a period of four (4) weeks from today, failing which he shall undergo simple imprisonment for a period of one week for which necessary steps would be taken by the Registrar of this court. A copy of this order shall be communicated to the Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad for his perusal and placing it in the service record of the respondent.

12. The Contempt Case is accordingly disposed of.

13. As a sequel thereto, the miscellaneous applications, if any pending in this

Contempt Case shall stand closed.

A.
Date: 31st March 2016
Nsr

RAMALINGESWARA RAO, J

[\[1\]](#) 2008 CrI.L.J (NOC) 327 (BOM.)