

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

Contempt Case No. 476 of 2016

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This Contempt Case is filed alleging violation of the order passed by this Court in Writ Appeal No. 840 of 2015, dated 3.9.2015.

While disposing of the said writ appeal, the Division Bench observed that it was open to the appellants to make an application under the provisions of the Act, seeking measurement and demarcation of their lands, and to comply with all the formalities required; if the appellants submitted an application, the concerned authority should process the same, if it was complete in all respects; he shall take further steps as expeditiously as possible, and preferably within a period of twelve weeks from the date of presentation of such application; if the appellants were required to pay survey fees/urgent survey fees, they should deposit the same within the time stipulated by the concerned authority; it was open to the concerned authority to examine the application and, if it was found that it was not in accordance with the provisions of law, he should pass appropriate orders including rejection of such application; and if the authority decided to measure and demarcate the boundaries, it should follow the due procedure contemplated under the provisions of the Act. While passing the order, the Division Bench made it clear that they had not expressed any view on the merits of the case.

From the counter affidavit filed by the respondents, it is evident that the petitioners had submitted a petition for survey of the land on 26.9.2015; immediately thereafter, the Revenue Divisional Officer had addressed a letter to the Municipal Commissioner, Assistant Director, Survey & Land Records, the Town Surveyor and the Tahsildar, on

6.10.2015; the Deputy Inspector of Survey, and the Town Surveyor had issued notice to the petitioner to attend on 28.3.2016, on the subject site, for survey of the land; on 28.3.2016, the Deputy Inspector of Survey and the Town Surveyor had surveyed the land in the presence of the petitioner, and had shown him the boundaries of the land pertaining to Survey No. 358; they had obtained a statement from the petitioner that the land in question was surveyed, and shown to him; and the land in Survey No. 358, which was in the possession of the Municipal Corporation, Srikakulam, vide registered document No. 3388/57 dated 24.6.1957, was sub-divided and sent to the Deputy Inspector of Survey, R.D.Os. Office.

The order, violation of which is alleged in this contempt case, merely left it open to the concerned authority to take a decision whether or not to measure or demarcate the boundaries. It is only if the authority decided to measure and demarcate the boundaries, were they required to follow the due procedure contemplated under the provisions of the Act. The Division Bench also made it clear that they were not expressing any opinion on the merits of the case. As is evident from the counter affidavit, not only did the authorities concerned survey the land, but they also demarcated the boundaries. The respondents cannot, therefore, be said to have violated the order of this Court.

As Sri T. Rajasekhar Rao, learned counsel for the petitioners, had submitted that the averments in the counter affidavit necessitated a reply we had, by our order dated 19.8.2016, granted him three weeks time to file a reply. No reply affidavit has been filed today, and the learned counsel for the petitioners seeks further time. We see no reason to accede to his request as we are satisfied, from the averments in the counter affidavit, that the order of the Division Bench has not been

violated, much less wilfully and deliberately. We see no reason, therefore, to proceed against the respondents under the Contempt of Courts Act.

The contempt case is, accordingly, closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(S.V. BHATT, J)

9th September, 2016

Pnb

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

Contempt Case No. 476 of 2016

Date:9.9.2016

pnb

