

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CC.No.842 of 2016

Date:11.11.2016

**Between:**

The Deity of Sri Aswatha Ramalingeswara  
Swamy Devasthanam, repto by its Hereditary  
Archaka-N.Jeeva Raj Swamy

..... Petitioner

**And:**

A.Pradeep Kumar,  
and another.

....Respondents

Counsel for the petitioner: Mr. G.Narasimha Murthy

Counsel for the respondents: Mr. P.Veera Reddy

Senior counsel,

For Mr. Butta Vijaya Bhaskar

The Court made the following:

ORDER.

This Contempt Case is filed alleging willful disobedience of order, dated 07.01.2016, in Writ Petition No.959 of 2016.

The petitioner has filed the afore-mentioned Writ Petition for a *Mandamus* to declare the inaction of respondent No.1 herein in stopping the unauthorised construction on the Devasthanam land in Survey No.293/19 of Kota Aswathanagar, Adoni Town, Kurnool District by respondent No.2 as illegal and arbitrary. By order, dated 07.01.2016, while issuing notice to respondent No.2, this Court restrained her from carrying on any construction over the afore-mentioned land. The writ petitioner has filed the present Contempt Case with the averments that the hereditary Archaka of the petitioner-Devasthanam has served personal notice on respondent No.2 on 11.01.2016; that the same was acknowledged by her; and that, even after receiving a copy of the order, dated 07.01.2016, of this Court, respondent No.2 did not stop the construction. The petitioner has filed photographs in support of this averment.

In response to the notice issued by this Court, respondent No.2 appeared in person more than once. Considering the fact that respondent No.2 is a woman, her presence was dispensed with while permitting her husband to appear on her behalf.

Respondent No.2 filed a counter-affidavit, wherein she has not denied the fact that after the interim order was passed by this Court, construction was proceeded with. She has, however, taken a stand that she is the lawful owner of the house plot and that she has constructed the building *bona fide* without being aware of the order of this Court. She has sought to throw the onus on her husband by pleading that in the cause title of the Writ Petition, the address of her husband's shop was mentioned and that therefore, she has not received a copy of the interim order of this Court; that she never attended to the construction work being carried on by her husband at the site; and that she was not aware of filing of the Writ Petition or the interim order passed therein. She has further averred that as she is confined to her house and household duties, completely dependant upon her husband for any activities outside the house, she cannot be held responsible for the construction of the house contrary to the interim order of this Court.

The fact that the interim order was passed by this Court restraining respondent No.2 from making further construction over the disputed plot and the further fact that despite the said order, construction was made over the plot are admitted.

The only aspect which requires to be adjudicated is whether the plea of respondent No.2 that she is not responsible for construction over the subject plot is sustainable or not.

Admittedly, the afore-mentioned plot stands in the name of respondent No.2, who is respondent No.5 in the Writ Petition, and construction permission was granted by the Adoni Municipality in her name. The whole grievance of the petitioner in the Writ Petition was that respondent No.2 herein has been raising construction over the plot belonging to the Devasthanam. It is not the pleaded case of respondent No.2 that her husband was not aware of the interim order. Assuming that interim order may have been served on her husband, she cannot plead ignorance of the interim order passed by this Court restraining her from raising further construction. Being the registered owner of the property and having obtained building permission, she cannot throw the blame on her husband in order to escape from the contempt liability. If the husband of respondent No.2 was looking after the construction work, it is reasonable to presume that he will not withhold the information regarding the restraint order passed by this Court from the petitioner. Therefore, an obligation was cast on respondent No.2 to ensure that further construction is not carried on either by herself or through her husband.

I am, therefore, wholly unconvinced with the defence taken by respondent No.2 that construction was made by her husband without her knowledge. Indeed, respondent No.2 has not disputed that the contempt notice addressed to her on 19.02.2016 by learned counsel for the petitioner was served at the shop address of her husband. Respondent No.2 has not pleaded that at least her husband has issued any reply to the said contempt notice. These undeniable facts convince me to hold that the defence raised by respondent No.2 is a moonshine and she had knowledge of the interim order passed by this Court. Regrettably, despite having such knowledge, respondent No.2 proceeded with the construction and completed the same in the teeth of the peremptory order passed by this Court restraining her from raising further construction.

On the strength of the afore-mentioned findings, I have no hesitation to hold that respondent No.2 is guilty of deliberate violation of interim order of this Court.

As regards the punishment to be imposed on respondent No.2, Mr. P.Veera Reddy, learned senior counsel appearing for respondent No.2, submitted that his client is a semi-literate woman; that she is not aware of the consequences of the violation of the order of this Court; and that therefore, a lenient view may be taken.

Considering the fact that respondent No.2 is a woman of 32 years of age with a child, interests of justice would be met if an appropriate fine is imposed. Accordingly, a fine of Rs.2,000/- (Rupees Two thousand only) is imposed on respondent No.2 under Section-12(1) of the Contempt of Courts Act, 1971. The Registrar (Judicial) shall take steps under Rule-33 of the Contempt of Court Rules, 1980 for execution of this order.

The Contempt Case is, accordingly, disposed of.

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*JUSTICE C.V.NAGARJUNA REDDY*

*11<sup>th</sup> November 2016*  
*DR*

