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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 137/2016 & C.M.No.5534/2016**

GYANENDER SINGH Petitioner

Through Mr.Rajiv Dewan, Advocate.

versus

JOGINDER SINGH & ANR Respondents

Through Mr.Naushad Ahmed Khan, ASC for
GNCTD with Ms.Hancy Wadhwa,
Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **02.12.2016**

Present contempt petition has been filed alleging wilful disobedience of the order dated 2nd February, 2016 passed in W.P.(C) No.4879/2013.

Learned counsel for the petitioner states that though the matter was simply adjourned on 2nd February, 2016, yet vide letter dated 5th February, 2016, the SDM ordered that a boundary wall of the Patwar Ghar be erected in pursuance to the order dated 2nd February, 2016. He further states that no such direction was passed by the High Court on 2nd February, 2016.

Learned counsel for the respondents states that while the W.P.(C) No.4879/2013 was filed qua khasra no.637/350, the construction in question had been carried out on khasra no.636/350. He also states that on similar allegations an application had been filed

before the learned Single Judge who was hearing the W.P.(C) No.4879/2013. However, the said writ petition and application were subsequently dismissed as withdrawn. Consequently, according to him, the present contempt petition is not maintainable.

In rejoinder, learned counsel for the petitioner relies upon the judgment of the Supreme Court in ***In Re: Bineet Kumar Singh, (2001) 5 SCC 501***, wherein it has been held as under:-

“5. That the order of this Court has been forged and fabricated is proved beyond reasonable doubt and there cannot be any dispute about the same. It is further established that the aforesaid forged order of this Court was received by Mrs Megha Rude, which she had indicated in her letter, Exhibit 27, to the Director. She was the Secretary of the institution, which institution had not been granted permission to present the students by the State of Maharashtra, and in her letter she had requested that examination be conducted, complying with the orders of the Supreme Court for the remaining students, since according to the Court's order, examination of students mentioned in the list had to be conducted. Along with the said letter, the purported true copy of the order of the Supreme Court had been enclosed. The said Mrs Megha Rude had been instructing counsel to file petitions even at times by impersonation. This fact is established from the evidence of Advocate Palshikar, as noticed in the report of the enquiring officer. The enquiring officer even found that a forged vakalatnama of Bineet Kumar Singh was executed by some unknown person who was impersonating as Bineet Kumar Singh on the instigation of Mrs Megha Rude, which is apparent from the statement of Witness 8, Shri N.D. Khamborkar, Advocate. The denial of Mrs Megha Rude has not been accepted by the enquiring officer and in our view, rightly. The question that arises for consideration, therefore is whether the said Mrs Megha Rude can be said to have committed contempt.

6. The law of contempt of court is essentially meant for keeping the administration of justice pure and undefiled. It is difficult to

rigidly define contempt. While on the one hand, the dignity of the court has to be maintained at all costs, it must also be borne in mind that the contempt jurisdiction is of a special nature and should be sparingly used. The Supreme Court is the highest court of record and it is charged with the duties and responsibilities of protecting the dignity of the court. To discharge its obligation as the custodian of the administration of justice in the country and as the highest court imbued with supervisory and appellate jurisdiction over all the lower courts and tribunals, it is inherently deemed to have been entrusted with the power to see that the stream of justice in the country remains pure, that its course is not hindered or obstructed in any manner, that justice is delivered without fear or favour. To discharge this obligation, the Supreme Court has to take cognizance of the deviation from the path of justice. The sole object of the court wielding its power to punish for contempt is always for the course of administration of justice. Nothing is more incumbent upon the courts of justice than to preserve their proceedings from being misrepresented, nor is there anything more pernicious when the order of the court is forged and produced to gain undue advantage. Criminal contempt has been defined in Section 2(c) to mean interference with the administration of justice in any manner. A false or misleading or a wrong statement deliberately and wilfully made by a party to the proceedings to obtain a favourable order would undoubtedly tantamount to interference with the due course of judicial proceedings. When a person is found to have utilised an order of a court which he or she knows to be incorrect for conferring benefit on persons who are not entitled to the same, the very utilisation of the fabricated order by the person concerned would be sufficient to hold him/her guilty of contempt, irrespective of the fact whether he or she himself or herself is the author of fabrication. On the aforesaid parameters, it would be necessary to examine whether it can be said that Mrs Megha Rude can be held to be guilty of contempt. In view of our conclusion on the basis of materials available in the enquiry proceedings with regard to the role played by Mrs Megha Rude, we have no hesitation to come to the conclusion that Mrs Megha Rude is guilty of gross criminal contempt and must be suitably punished for the same.”

Having heard the learned counsel for the parties, this Court finds that admittedly the present case is not a case of forgery and/or fabrication of a Court order. Consequently, the judgment in *In Re: Bineet Kumar Singh* (supra) is inapplicable to the facts of the present case.

In any event, as there is a dispute with regard to the location of khasra no.636/350 and the respondents claim themselves to be the owners of the said khasra, this Court is of the view that the respondents require no permission or Court order to construct a boundary wall on their own alleged land.

This Court is also of the opinion that as the learned Single Judge who had disposed of W.P.(c) 4879/2013 did not take any action in an application containing similar allegations, the present contempt petition is not maintainable.

Accordingly, the present contempt petition and pending application are dismissed and the notices issued are discharged.

MANMOHAN, J

DECEMBER 02, 2016

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