

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.C.No.985 of 2016

ORDER:

This Contempt Case is filed alleging willful disobedience by the respondents of the order dt.17-03-2016 passed by this Court in W.P.No.15056 of 2014.

2. The said Writ Petition had been filed by the petitioner for a direction to the respondents to incorporate its name as the owner and possessor of the land admeasuring Ac.24.35 gts in Sy. No.77 of Hafeezpet village, Serilingampally Mandal, Ranga Reddy District in all the revenue records including pahanies by deleting the existing entry “government land” inconsonance with the mutation order passed by 2nd respondent in proceeding No.B/965/2004 Dt.14-11-2005.

3. The 1st respondent in the Writ petition was the State of Telangana, the 2nd respondent was the District Collector, Ranga Reddy District and the 3rd respondent was the Tahsildar, Serilingampally Mandal, Ranga Reddy District.

4. The said Writ Petition was allowed on 17-03-2016 with costs of Rs.5,000/- to be paid by 2nd respondent and a Writ of Mandamus was issued to the respondents to incorporate the name of the petitioner as owner and possessor of the above land in all revenue records including pahanies by deleting the entry of “government land” therein.

5. This Contempt case has been filed by Writ Petitioner alleging that after the Writ Petition was allowed, it had issued legal notice on 21-05-2016 requiring the respondents to comply with the judgment and to update the revenue records; and though the said notice was received and acknowledged by the respondents, they did not comply with the judgment of this Court and mutate the name of the petitioner in the revenue records.

6. In this Contempt case, the 1st respondent is the District Collector, Ranga Reddy District and the 2nd respondent is the Tahsildar, Serilingampally Mandal, Ranga Reddy District.

7. Notice before admission in the Contempt Case was ordered on 24-06-2016. On 15-07-2016, the learned Advocate General filed Memo of appearance for the respondents.

8. After receipt of notice, the Tahsildar-2nd respondent filed a counter affidavit on 02-08-2016 practically questioning the correctness of the order dt.17-03-2016 passed in the Writ Petition and stating that it was decided to file an appeal against the said order before the Division Bench; that the appeal was filed subsequently and was posted on 22-07-2016; and pending disposal of the Writ Appeal, there is no willful disobedience or violation of the order passed by this Court.

9. It is stated by the Special Government Pleader appearing for the respondents that the said Writ Appeal was numbered as

W.A.No.579 of 2016 and in W.A.M.P.No.1549 of 2016 therein, they also sought suspension of the order passed in W.P.No.15056 of 2014; and that on 17-08-2016, the Division Bench passed the following order:

“Except to the extent the learned Single Judge imposed costs of Rs.5,000/-, we seek no reason, as at present, to suspend the order under appeal. It is however made clear that incorporation of the respondent-writ petitioner’s name in the revenue records, and alienation by them of the subject lands, shall be subject to the result of the Writ Appeal and in any document, alienating the subject property, the respondent-writ petitioner shall specify that such alienation is subject to the result of the Writ Appeal.”

10. Thereafter, 2nd respondent produced a letter No.B/2972/2016 dt.26-09-2016 by deleting the entry ‘Government Land’ in the Revenue records in respect of the subject land. It was further stated that that the Village Revenue Officer (VRO), Hafeezpet was directed to implement the order passed by this Court and incorporate the name of the petitioner in the revenue records in respect of the subject land and the following particulars would be incorporated:

Sy. No.	Extent	Present entry in Patta column	Amended entry in Patta column	Amended entry in Possession Column	Amended entry in Possession Column
77/P	24-35 gts (Extent is subject to confirmation by survey)	Gairan	Vediri Estates Pvt. Ltd. Rep. by its M.D., Sri V.Panduranga Reddy S/o.V.Shiva Reddy. (This incorporation of the name of M/s.Vediri Estate is subject to the outcome of W.A.No.579 of 2016 pending before the	Patta, this change of classification of land from Government to Patta, subject to the outcome of W.A.No. 579/2016 pending before the Hon’ble	Vediri Estates Pvt. Ltd. Rep. by its M.D., Sri V.Panduranga Reddy, S/o. V.Shiva Reddy (This incorporation made in the name of M/s.Vediri Estate subject

			Hon'ble Court)	High	High Court.	to the outcome of W.A.No. 579/2016 pending before the Hon'ble High Court)
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11. Taking the view that that the matter mentioned in the brackets in the above table (stating that incorporation of the name of petitioner is subject to the outcome of W.A.No.579 of 2016 pending before this Court), cannot be permitted to be mentioned, time of one week was granted on 25-11-2016 to respondents to consider deleting this portion.

12. On 02-12-2016, the Special Government Pleader, appearing for the respondents stated that the respondents would seek clarification from the Division Bench on this aspect and that the respondents are not willing to delete this portion from the Revenue Records.

13. The Court then issued notice in Form-I on 02-12-2016 to the respondents taking a *prima facie* view that the Division Bench had not permitted the respondents to mention the matter printed in brackets in the revenue records and had directed the petitioner only to mention it in any sale deed or in the document of alienation dealing with the subject property.

14. Thereafter the matter was listed on 30-12-2016, on which date, it was adjourned to 20-01-2017. The Special Government Pleader stated that no steps were taken to seek any clarification from

the Division Bench as represented by him earlier on 02-12-2016. On 20-01-2017 the Court again cautioned the Special Government Pleader that a serious view would be taken if the matter mentioned in brackets in the above proceedings is mentioned in the revenue records. The matter was further adjourned to 03-02-2017.

15. On 03-02-2017, the 1st respondent- District Collector filed a counter stating that the entire proceedings in the subject matter is seized by and is pending before a Division Bench of this Court; that the Letter No.B/2972/2016 dt.26-09-2016 incorporated the name of the petitioner indicating the substance of protection granted by the Division Bench. It is stated that the incorporation of the name of the petitioner being subject to the order in the Writ Appeal No.579 of 2016 is proper, that it is in consonance with the protection granted by the Division Bench in its interim order, and it was necessary to put the public /third parties on notice regarding orders issued by the Court in respect of pending litigation. It is stated that the 2nd respondent is the competent authority to affect mutation in the Revenue record and since he (1st respondent) was impleaded as a party, he was filing this counter affidavit. He denied that he willfully or wantonly disobeyed the order passed by the Court.

16. When the matter was next listed on 10-02-2017, a proceeding in letter No.B/2972/2016 dt.01-02-2017 was produced by the learned Special Government Pleader stating that the VRO, Hafeezpet village was directed to implement the order of this Court

and incorporate the name of the petitioner in the Pahani for the year 2016-17 in pattadar and possessor columns in respect of the subject land subject to the result of the W.A.No.579 of 2016 pending before the Court.

17. In view of this letter, hoping that the respondents would delete the matter in brackets pointed out by the Court, the matter was adjourned to 17-02-2017 dispensing with the presence of the respondents until further orders and the Special Government Pleader was directed to produce copy of the mutation order/pahani issued pursuant to the proceedings dt.01-02-2017 referred to above.

18. On 17-02-2017, it was represented that the Special Government Pleader was held up in the Court of Hon'ble the Acting Chief Justice and therefore the matter was posted to 20-02-2017.

THE PAHANI FOR 2016-17

19. On 20-02-2017, the Special Government Pleader produced copy of pahani for the year 2016-17 incorporating the name of the petitioner as the pattadar and possessor in columns 12 and 13 in respect of the subject land mentioning that this was done as per the direction dt.17-03-2016 in W.P.No.15056 of 2014. But in column No.31 which dealt with "remarks", it was stated *that this incorporation of the name of the petitioner was subject to final order in W.A.No.579 of 2016.*

20. Thus the 2nd respondent had not deleted the matter in brackets objected to by the Court and instead had moved it to the “remarks” column (col.31) in the Pahani for 2016-17.

CONTENTIONS OF COUNSEL FOR PETITIONER

21. Learned counsel for the petitioner strongly objected to the conduct of 2nd respondent in mentioning in the pahani that the incorporation of the name of the petitioner is subject to the result in W.A.No.579 of 2016. He contended that the final order in the Writ Petition or the interim order in the W.A.579 of 2016 did not permit the respondents to mention the matter in column 31 of the Pahani; there was no suspension of the order in the Writ Petition by the Division Bench; that it had not also prohibited any alienation by the petitioner, but in fact permitted such alienation subject to result in the Writ Appeal; and so the remarks in Column No.31 of the pahani of 2016-17 are not a true and purposive compliance of the order of the Court, but in fact a deliberate disobedience and attempt to overreach the order of the Court in spite of several chances being given to the respondents.

CONTENTIONS OF SPL.GOVERNMENT PLEADER

22. The learned Special Government Pleader contended that the order in Writ Appeal has been complied by incorporating the name of the petitioner both in the ‘patta column’ and in the ‘possession column’, that this is substantial compliance and the

Division Bench had anyway indicated that the incorporation of the name of the petitioner in the revenue records or alienation by them would be subject to the Writ Appeal, and therefore by way of abundant caution, the remarks stating that ‘the name of the petitioner was incorporated subject to the result of the Writ Appeal’ were made in the column No.31. He contended that that there was no deliberate attempt to violate the Court order.

THE POINT FOR CONSIDERATION

23. From the rival contentions, the point which needs to be decided is:

“1.Though the 2nd respondent had deleted the words “Government Land” in the pattadar and possession column in the pahani for 2016-17 and incorporated the name of the petitioner, is his action in mentioning in column 31 of the pahani that such incorporation is subject to the outcome of WA.No.579 of 2016 pending before this Court liable to be treated as willful disobedience of the order dt.17.03.2016 of the Court in W.P.No.15056 of 2014 ?

2. Is the 2nd respondent liable to be proceeded with for contempt?

3. To what relief? ”

Point (1):

24. From the facts narrated above, it is clear that though the W.P.No.15056 of 2014 was decided on 17.03.2016, it was only on 20.02.2017 that the Special Government Pleader produced the Pahani for the year 2016-17 incorporating the name of the petitioner in column No.12 and 13 wherein it was mentioned in column No.31 under the heading “Remarks”, that the incorporation of the name of the petitioner was subject to the result in W.A.No.579 of 2016.

This was prepared by the Village Revenue Officer, Hafizpet, on the instructions of the 2nd respondent in Lr.No.B/2972/2016, dt.01-02-2017.

25. When the order in W.P.No.15056 of 2014 did not permit this and even the interim order dt.17-08-2016 in W.A.M.P.No.1549 of 2016 in W.A.No.579 of 2016 filed by the State of Telangana and the respondents herein did not permit this, in my considered opinion, it was not open to the respondents to mention in column 31 that incorporation of the name of the petitioner was subject to the result in W.A.No.579 of 2016.

26. In **Supreme Court Bar Association v. B.D.Kaushik**¹, the Supreme Court had in an order passed on 26-09-2011, in relation to admission of members of the Supreme Court Bar Association and elections thereto, appointed 3 Senior Advocates to prepare a list of regular members practicing in the Supreme Court by following procedure prescribed by it in the said order. The said Committee adopted a resolution on 11-01-2012 mentioning certain categories of Advocates who would be entitled to vote and contest elections. But on 16-01-2012, a meeting was held by the members of the said Association wherein it was decided that the Supreme Court decision should not be given effect to and to expel the three 3 Senior Advocates appointed by the Court from the said Association.

¹ (2012) 6 SCC 152

The Court held that once the 3 Man Committee was appointed by the Supreme Court in its order dt.26-09-2011 and it took action pursuant thereto, and convened a general body meeting on 16-01-2012 with the sole agenda indicating consideration of the implications of it's said order, *it was not permissible for the members to consider any other agenda for which notice had not been given*, whatever they may have felt and they should have taken recourse to other lawful means if they felt aggrieved by those direction of the Court.

It held that the resolutions adopted at the General body meeting on 16-01-2012, and, thereafter, on 18-01-2012, were not only an affront to the majesty and dignity of the Supreme Court, but were outright *contumacious*. It set aside the resolutions adopted by the general body meeting of the association held on 16-01-2012. Since the persons involved are all members of the Bar practicing in the Supreme Court, the Court did not punish them for Contempt.

It observed:

“77.Once such directions had been given in the judgment disposing of the two civil appeals filed by SCBA through Mr Ashok Arora, the members of SCBA were bound by the directions contained therein and the said directions had to be obeyed, however aggrieved a member of SCBA might be.

78. The agenda for the meeting of the general body which was convened on 16-1-2012, to consider the implications of the judgment in B.D. Kaushik case¹, did not permit the members to consider any other agenda for which notice had not been given, whatever may have been the mood of the members present at the meeting. If any member felt aggrieved by the judgment delivered on 26-9-2011¹, he

could have taken recourse to other lawful means available to him under the law.

79. The resolutions adopted at the general body meeting on 16-1-2012, and, thereafter, on 18-1-2012, were not only an affront to the majesty and dignity of the Supreme Court, but were outright contumacious.”

27. Thus, if a Court order directs a party to do something, the party after doing that thing, cannot be permitted to do something else, which is not permitted by the Court on the ground that it was not prohibited by the Court from doing it.

28. In **Krishna Gopal Chawla and others v. State of U.P. and Another**² a decree for arrears for rent and ejectment in favour of appellants had been confirmed by the Supreme Court and appeal of respondents dismissed. The Supreme Court permitted the respondents to remain in possession of the property for one year from the date of its judgment upon filing an undertaking to that effect.

But the undertaking given by the respondents was different and inconsistent with the terms stipulated by the Court. It stated that they would deliver possession *either to the appellant or to their vendees or to the State Government of U.P.*

When execution application was filed by the appellants, objections were filed thereto by the respondents stating that they had handed over the property to the State of U.P. which was one of the respondents and real owner and so the decree of the Supreme Court stood satisfied. The trial Court dismissed the objections. Thereafter,

² 2001(9) SCC 694

the respondents approached the High Court in Writ jurisdiction raising the same objections to the execution of the decree. The High Court upheld the said objections. The Supreme Court set aside the High Court order.

The Supreme Court held that the undertaking filed by the respondents should have read that the respondents would deliver vacant and peaceful possession of the premises to the appellants on or before 01-03-1995, but the undertaking filed by the respondents stated that they would deliver possession either to the appellant or to their vendees or to the State Government of U.P.; that this indicated that the intention of the respondents was not *bonafide*; and this undertaking given by the respondents is an attempt to *over reach* the order of the Court. It allowed the appeal with costs of Rs.10,000/- to be paid to the appellants by the respondents.

Thus, the above principle that parties should act according to the order passed by the Court and not do something which amounts to overreach of the Court order, was once again reiterated.

29. I have already mentioned that this Court had cautioned the respondents not to mention the matter in the remarks column (column No.31) taking a *prima facie* view that the order dt.17-08-2016 in W.A.M.P.No.1549 of 2016 in W.A.No.579 of 2016 did not permit this. This fact is not disputed by the respondents. But they say that still they are justified in mentioning the matter mentioned in Col.31 in

the said Pahani ostensibly in public interest. How this is so, is not explained by respondents.

30. In **S.Nagaraj and others v. State of Karnataka and another**³, the Supreme Court held that if an order has been passed by a Court which had jurisdiction to pass it, then any error or mistake in it can only be corrected by a higher Court or by an application for clarification, modification or recall of the order and not by ignoring it by any authority actively or passively or disobeying it expressly or impliedly. It held that even if the orders had been improperly obtained, the authorities cannot assume on themselves the role of substituting it or *clarifying it* or *modifying it* as they consider proper. It observed:

“Any order passed by a court of law, more so by the higher courts and especially this Court whose decisions are declarations of law are not only entitled to respect but are binding and have to be enforced and obeyed strictly. No court much less an authority howsoever high can ignore it. Any doubt or ambiguity can be removed by the court which passed the order and not by an authority according to its own understanding.”(emphasis supplied)

It quoted with approval the passage in Halsbury’s Laws of England (4th Edition, Volume-9, P-35, para-55) which stated the law on orders improperly obtained:

“The opinion has been expressed that the fact that an order ought not to have been made is not a sufficient excuse for disobeying it, that disobedience to it constitutes a contempt, and

³ 1993 Supp (4) Supreme Court Cases 595

that the party aggrieved should apply to the court for relief from compliance with the order.”

31. In the present case, if the respondents entertained any doubt about the interpretation of the order passed on 17-03-2016 in W.P.No.15056 of 2014 or about the interim order dt.27-08-2016 in W.A.No.579 of 2016, they ought to have sought clarification of the orders from the Courts. In fact the Special Government Pleader, appearing for respondents, had informed the Court on 02-12-2016 that the respondents would seek clarification from the Division Bench which passed the interim order on W.A.No.579 of 2016, but no such steps were taken, admittedly.

32. In **E.T. Sunup v. C.A.N.S.S. Employees Assn⁴**, the Supreme Court deprecated the practice of Government officials like the respondents in finding ways to flout Court orders. It noted :

“ 16. It has become a tendency with the government officers to somehow or the other circumvent the orders of court and try to take recourse to one justification or other. This shows complete lack of grace in accepting the orders of the Court. This tendency of undermining the Court’s order cannot be countenanced. This Court time and again has emphasised that in a democracy the role of the court cannot be subservient to administrative fiat. The executive and legislature have to work within the constitutional framework and the judiciary has been given the role of watchdog to keep the legislature and executive within check...”

33. In **Maninderjit Singh Bitta v. Union of India⁵** the Court reiterated the same and observed :

⁴ (2004) 8 SCC 683

⁵ (2012) 1 SCC 273

*“ 26. It is also of some relevance to note that disobedience of court orders by positive or active contribution or non-obedience by a passive and dormant conduct leads to the same result. Disobedience of orders of the court strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs (refer **T.N. Godavarman Thirumulpad case**⁶, SCC p. 6, para 5).”*

34. It is not in dispute that the 2nd respondent is the authority responsible for making mutation in the revenue records. The counter of the 1st respondent explicitly says so.

35. In my opinion, the action of the 2nd respondent in directing vide Lr.No.B/2972/2016 dt.1.2.2017, the VRO, Hafeezpet to incorporate the words “incorporation of the name of the petitioner is subject to the final order in W.A.No.579 of 2016” in spite of being cautioned more than once by this Court, amounts to overreaching the order passed by this Court.

36. The pahani for 2016-17 in col.31 prepared by the VRO, Hafeezpet mentions in Col.31 that incorporation of the name of the petitioner is subject to the final order in W.A.No.579 of 2016”.

37. This shows complete lack of grace on part of 2nd respondent in accepting the orders of the Court and this tendency of undermining the Court’s order cannot be countenanced.

⁶ (2006) 5 SCC 1

38. Therefore, the respondent No.2 has to be held to have willfully and deliberately violated the order dt.17-03-2016 in W.P.No.15056 of 2014 as well as the interim order dt.27-08-2016 in W.A.No.579 of 2016 passed by this Court.

39. Point (1) is answered accordingly against the 2nd respondent.

POINT (2):

40. Coming to the 1st respondent i.e the District Collector, who is the officer superior in rank to the 2nd respondent and a member of the Indian Administrative Service, he was himself a party to the order dt.17-03-2016 in W.P.No.15056 of 2014 as well as to the order dt.17-08-2016 in W.A.M.P.No.1549 of 2016 in W.A.No.579 of 2016. Therefore, the 1st respondent is aware of both orders. But the person to implement the order was the 2nd respondent and not the 1st respondent.

41. The 1st respondent was present in the Court on 20.1.2017 when the Court cautioned the Special Government Pleader that a serious view would be taken if the matter mentioned in brackets in the proceedings No.B/2972/2016 dt.26.9.2016 is mentioned in the revenue records.

42. Yet the 1st respondent filed his counter on 3.2.2017 that the action of the 2nd respondent is in conformity with the directions dt.17-08-2016 of the Division Bench in W.A.M.P.No.1549 of 2016 in W.A.No.579 of 2016.

43. Since he was not the competent authority to implement the order of the Court, there was really no necessity for him to take this stand. Yet, he chose to do so and support the action of the 2nd respondent, who is his subordinate.

44. After the counter of 1st respondent was filed on 3.2.2017, the Special Government Pleader produced thereon 10.2.2017, the proceeding in Lr.No.B/2972/2016 dt.1.2.2017 of the 1st respondent directing the VRO,Hafeezpet to incorporate the name of the petitioner subject to final order in W.A.No.579 of 2016. He also produced the Pahani for 2016-17 on 20.2.2017 prepared by the VRO, Hafeezpet mentioning in col.31 thereof that “the incorporation of name of petitioner was subject to final order in W.A.No.579 of 2016”.

45. It is obvious that the 2nd respondent was emboldened to do what he did because of the stand adopted by the 1st respondent.

46. This conduct of 1st respondent amounts to clearly encouraging the 2nd respondent to defy the Court orders/observations and also to deliberately treat the same as unworthy of any value.

47. It is settled law that even a third party, if he is aware of the Court order, will also be liable for Contempt of Court for his conduct if he either directly aids or abets violation on the part of the person who is bound by the Court order. Even though he the third party may not have technically infringed the Court order, he can be proceeded with for contempt if he has been aiding and abetting others in defying the Court orders, and deliberately treating the order of the

Court as unworthy of notice. Such conduct of the third party knowingly interferes with the administration of justice by causing the order of the Court to be thwarted. (**Sita Ram Vs. Balbir⁷, Seaward Vs. Paterson⁸, Z Ltd. Vs. A – Z and AA - LL⁹ and Attorney General Vs. Times Newspapers Ltd.¹⁰**)

48. For these reasons I hold that the 1st respondent has abetted the 2nd respondent in committing Contempt of Court and is equally guilty of contempt.

49. Point (2) is answered accordingly against the 2nd respondent.

Point (3):

50. In *DDA v. Skipper Construction Company Private Limited¹¹* it was held that a contemnor ought not to be permitted to enjoy and/or keep the fruits of his contempt.

51. Since this court is of the opinion that the respondents were not competent to mention in the pahani for 2016-17 or in any other record that incorporation of the name of the petitioner therein or in the Revenue Records is subject to result of the W.A.No.579 of 2016, the respondents are directed to delete the said remarks in Column No.31 of the said Pahani and they are restrained from mentioning it anywhere in the said Pahani or elsewhere.

⁷ (2017) 2 S.C.C. 456 at para 41 to 46 page 478 to 480

⁸ (1895-99) All England Reports 1127

⁹ (1982) 1 All England Reports 556

¹⁰ (1991) 2 All England Reports 398

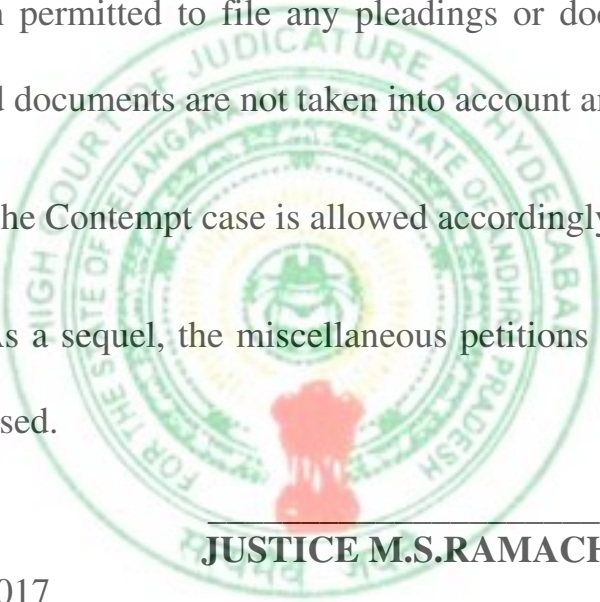
¹¹ 1996(4) SCC 622

52. Further the respondents are held guilty of willful disobedience of the order dt.17-03-2016 in W.P.No.15056 of 2014 and sentenced to pay fine of Rs.2,000/- (Rupees Two Thousand only) within four (4) weeks from date of receipt of copy of this order and in default to suffer simple imprisonment of four (4) weeks.

53. Without seeking permission of this Court, certain third parties have filed certain documents and pleadings raising certain contentions. Since they are not parties in the Contempt Case and they have not been permitted to file any pleadings or documents by this Court, the said documents are not taken into account and are ignored.

54. The Contempt case is allowed accordingly.

55. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.



JUSTICE M.S.RAMACHANDRA RAO

Date: 15-03-2017

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