

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CC NO.1814 OF 2014

ORDER:

This Contempt Case is filed alleging wilful disobedience of the order dt.08.08.2014 in WP.MP.No.27009 of 2014 in W.P.No.21552 of 2014.

2. Petitioner herein had filed the above Writ Petition alleging that he is a resident of Pedaogirala village, Vuyyur Mandal of Krishna District and resident at Door No.4-96, Main Road in the village, that the plot abutting his land belongs to the respondents 4 to 10 in the Writ Petition, that the respondents 4 to 10 in the Writ Petition are making construction therein illegally.

3. According to the petitioner, though respondents 4 to 10 have permission from the Grampanchayath, Pedaogirala to build only Ground + First floor and did not have permission to build anything more, they erected a structure with Ground + 3 Floors without obtaining any permission for the extra two floors.

4. Petitioner contends that though he filed a representation dt.07.01.2014 before the respondent herein, no action was taken by the respondent.

5. In the said Writ Petition, WP.MP.No.27009 of 2014 was filed to direct the respondents 4 to 10 not to undertake any further constructions in the plot belonging to them.

6. On 08.08.2014 in the said application, the Standing Counsel for the Gram Panchayat stated that the procedure prescribed in G.O.Ms.No.67 dt.26.07.2002 has to be followed and the respondent herein would follow the said procedure and take appropriate action, if construction made by the respondents 4 to 10 are found illegal. This undertaking of the Standing Counsel for 1st respondent was recorded on 08.08.2014 by this Court.

7. However, since nothing happened, a legal notice dt.15.10.2014 was issued by the petitioner to the respondent stating that Contempt Case would be initiated if the undertaking given on his behalf to the Court, is violated.

8. Thereafter the present Contempt Case is filed.

9. Initially, 'notice before admission' was ordered to the respondent on 07.11.2014. Subsequently after service of notice on the respondent, since there was no representation on his behalf, on 12.07.2017 notice in Form-I was also issued to the respondent.

10. Today, the respondent has appeared and has also engaged a counsel, Sri G.Sheshadri, apart from filing a counter affidavit.

11. In the counter affidavit filed by the respondent, he stated that he took charge as In-charge Panchayat Secretary of Pedaogirala Village in May, 2014, that the Vice-Chairman of VGTM rejected the approval and returned plan submitted by

respondents 4 to 10 in the Writ Petition and instructed him to take action against the unauthorized constructions, that he issued notice on 07.07.2014 to the unofficial respondents in the Writ Petition informing them about the rejection of the plans submitted by them and instructed them for removing the said unauthorized constructions, failing which he would initiate action according to the Rules. According to him, respondents 4 to 10 in the Writ Petition gave a reply requesting that they already paid requisite fee to the Gram Panchayat and they are ready to comply with any conditions imposed by the authorities. According to the respondent, on 24.08.2014, he again issued a notice to respondents 4 to 10 to remove the constructions and that they replied to the same stating that they are living in the newly constructed houses and that no action should be taken against them.

12. It is stated that he informed the District Panchayat Officer for taking further action according to G.O.Ms.No.67 dt.26.07.2002, that subsequently on 24.02.2015 his services as In-charge Panchayat Secretary of the said Grampanchayat ended, and he cannot be said to have violated the undertaking given by him.

13. It is pertinent to note that Andhra Pradesh Gram Panchayat Land Development (Layout and Building) Rules, 2002 were framed vide G.O.Ms.No.67 dt.26.07.2002 under Section 268 of the A.P. Panchayat Raj Act, 1994. These Rules prohibit

any construction being made contrary to the sanction and Rule 33 prescribes prosecution and fine apart from taking of action including demolition of the unauthorized construction. Section 121 of the A.P. Panchayat Raj Act, 1994 prohibits construction being made in violation of the permission granted by the Gram Panchayath. Under Section 131 of the said Act if any notice is given to any person to do any act and he does not do it, the Executive Authority of the Gram Panchayat may cause such work be executed or may take any measures to give effect to his notice.

14. However the respondent, being the In-charge Panchayat Secretary, clearly did not do anything except giving notices to the official respondents in the Writ Petition, though he has power to call a meeting of the Gram Panchayat and see that the notice issued by him to the unofficial respondents in the Writ Petition to remove the illegal constructions on 07.07.2014 and 24.08.2014 are given effect to.

15. Thus, the respondent has clearly violated the undertaking given on his behalf by the Standing Counsel appearing for the Gram Panchayat on 08.08.2014 in WP.MP.No.27009 of 2014 in W.P.No.21522 of 2014, though he was acting as In-charge Panchayat Secretary for six months, after the said order was passed by this Court till 24.02.2015.

16. Since the respondent did nothing to enforce the undertaking given on his behalf to this Court, I am of the

opinion that he wilfully violated the undertaking given to this Court.

17. Sri G.Sheshadri, Standing Counsel for Gram Panchayat appearing for the respondent states that he would instruct the present Panchayat Secretary to take action against the unofficial respondents in the Writ Petition and that the respondent herein be let off since he is not aware of what is to be done as per the undertaking given on his behalf in this Court in WP.MP.No.27009 of 2014.

18. The alleged lack of knowledge of the respondent is irrelevant since it was his duty to obtain legal advice from the Standing Counsel of the Gram Panchayat if he had any doubt about what he is supposed to do. It is not the case of the respondent that he has consulted any lawyer including the Standing Counsel of the Gram Panchayat as to the future course of action to be adopted by him after the order dt.08.08.2014 was passed by this Court recording undertaking given on his behalf.

19. The fact that the respondent was only In-Charge Panchayat Secretary is also irrelevant since as long as he was In-Charge Panchayat Secretary, it was his duty to see that the undertaking given on his behalf is implemented by him.

20. Therefore, this Contempt Case is allowed; the respondent is sentenced to one month Simple Imprisonment with fine of Rs.1,500/- to be paid within a period of four (04) weeks from

today. Petitioner shall deposit subsistence allowance @ Rs.300/- per day within a period of four (04) weeks from today. The sentence of imprisonment imposed on the respondent is suspended for a period of six (06) weeks. The present Panchayat Secretary of Pedaogirala village, Vuyyur Mandal of Krishna District, Machilipatnam shall forthwith take action to remove the illegal construction made by respondents 4 to 10 in the Writ Petition after complying with principles of natural justice.

21. Consequently, miscellaneous petitions pending if any shall stand closed.

16th August, 2017.
gra

M.S.RAMACHANDRA RAO, J

