

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Contempt Case No.665 of 2017

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

This Contempt Case is filed alleging violation of the order of the Division Bench in W.A. No. 1373 of 2012 dated 8.11.2012. The petitioners herein are the appellants in W.A. No. 1373 of 2012. The said appeal was preferred against the order of the learned Single Judge, in WVMP No. 3437 of 2012 in WPMP No. 33343 of 2012 in WP No. 26169 of 2012 dated 15.10.2012, vacating the interim order granted in favour of the appellants-writ petitioners. In the order, vacating the interim order, the Learned Single Judge had held that, inspite of the vacate stay petition being filed, the appellants-writ petitioners were not ready, and they were putting one lame excuse or the other. Aggrieved thereby the petitioner herein filed W.A.No.1373 of 2012. By its order, in W.A.No.1373 of 2012 dated 08.11.2012, the Division Bench disposed of both the writ appeal and the writ petition.

In its order dated 08.11.2012, the Division Bench noted that the appellants-writ petitioners had questioned the No Objection Certificate granted by the Joint Collector, in favour of the unofficial respondents herein, dated 9.9.2012; the said NOC related to premises No. 13-6-439/C/4, Satyanarayana Nagar Colony, Gudimalkapur stating that the said premises was located in Survey No. 135/1 of Gudimalkapur Village; apprehending that the said NOC affected the rights of the appellants-writ petitioners with regards the property claimed by them, the present writ petition was filed; the counsel for the contesting respondents 11 and 12 in the

Writ Appeal had stated that their title was only with regards their property in Survey No.135/1, the said NOC was confined only to the said property, and was not concerned with the property claimed by the appellants-writ petitioners located in Survey No.135/2; and, in view of the categorical statement, the apprehension of the appellants-writ petitioners did not survive. Recording the submission, both the Writ Petition and the Writ Appeal were disposed of.

All that the Division Bench, in its order in W.A. No. 1373 of 2012 dated 8.11.2012, did was to record the submission of respondent Nos. 11 and 12 that the No Objection Certificate granted by the Joint Collector, with regards premises No. 13-6-439/C/4 of Satyanarayana Nagar Colony, Gudimalkapur Village, was confined only to Survey No.135/1, and did not concern the property in survey No. 135/2.

The complaint in the present contempt case is that the brothers of respondent Nos. 11 and 12 have now started making construction in Survey No.135/2; and despite several complaints by the petitioners to the GHMC, to stop the illegal construction, no action was being taken.

The order in W.A.No.1373 of 2012 dated 08.11.2012 related only to the No Objection Certificate granted by the Joint Collector, and the Division Bench recorded the undertaking of respondent Nos. 11 and 12 that the No Objection Certificate issued by the Joint Collector was confined only to 135/1. It is now contended before us by Sri C.Hanumantha Rao, Learned Counsel for the appellants, that the brothers of respondent Nos. 11 and 12 had commenced construction in Survey No.135/2 and, despite the appellants-writ

petitioner's representation, the GHMC was not taking any action against them. This grievance of the petitioners can only be agitated in independent legal proceedings, and not in proceedings under the Contempt of Courts Act, 1971 (for short 'the Act').

The jurisdiction, which this Court exercises under the Act, is only when the order of this Court has been violated, that too wilfully and deliberately. The undertaking furnished to this Court was that the NOC issued by the Joint Collector was confined only to Survey No.135/1, and has no connection with the alleged illegal construction resorted to by the brothers of respondent Nos. 11 and 12 in Survey No.135/2. Failure of the GHMC to stop the alleged illegal construction cannot be understood as a wilful and deliberate violation of the order of the Division Bench in W.A.No.1373 of 2012 dated 8.11.2012. The only remedy available to the appellants-writ petitioners is to question the inaction of the GHMC in appropriate legal proceedings. We see no reason, therefore, to proceed against the respondents under the Act.

Reliance placed by Sri C. Hanumantha Rao, learned counsel for the appellants, on the judgment of a Division Bench of this Court in **T. Madan Mohan Reddy vs. Principal Secretary to Revenue Department, A.P., Hyderabad and Others**¹ is misplaced. In the said judgment, the Division Bench held that the High Court had the power, under Article 215 of the Constitution of India, to review the order passed by it in contempt proceedings. The power of review, as has been held by the Division Bench, inheres in the High Court as a Court of record. The High Court has the inherent powers to correct its own records under Article 215 of the

¹ 2017 (2) ALD 242 (DB)

Constitution of India. That, however, would not justify the High Court exercising its jurisdiction under the Act even though a wilful and deliberate violation of the order passed by it is not made out.

We are satisfied that the present case is not one in which we should exercise our jurisdiction under the Act. The Contempt Case fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

10th April, 2017

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Date: 10.4.2017

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