

**HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N. BALAYOGI**

L.P.A.M.P.No.18 of 2017 in L.P.A.No.6 of 2017

ORDER: *(V. Ramasubramanian, J)*

This is an application filed by two persons, who are third parties to contempt proceedings before the learned single Judge. The petitioners herein seek leave of this court to prefer an appeal against the order passed by the learned Judge in the contempt case on 03-07-2017.

2. Heard Mr. Vedula Venkataramana, learned senior counsel appearing for the petitioners.

3. The 1st respondent herein filed a writ petition in W.P.No.22680 of 2015 alleging construction of a building in violation of the approved Building Plan and Development Control Rules. Along with the writ petition, the 1st respondent also filed a miscellaneous petition in WPMP.No.29303 of 2015 for an interim direction to the Municipality to stop construction. The 1st petitioner herein was cited as the 3rd respondent in the said writ petition.

4. On 23-07-2015, a learned Judge of this Court passed an interim order in the said writ petition to the following effect:

“Even according to the instructions furnished to the learned standing counsel, the 3rd respondent has already made certain deviations contrary to the sanctioned plan. Furthermore, according to the sanctioned plan, the 3rd respondent was entitled to construct only ground + two floors. Whereas, the photographs enclosed to the writ affidavit would disclose that he has already taking steps to construct 3rd floor, which is a further illegality.

Having regard to the same, there shall be interim direction, as prayed for.”

5. Contending that the said order was violated and the construction was allowed to be completed, the 1st respondent, who was the writ petitioner, moved a contempt case in C.C.No.2020 of 2015. In the contempt case, the 1st respondent chose to implead only the officials of the Municipality as parties. On 03-07-2017, the learned Judge passed the following order in the contempt case.

“Elaborate submissions made by the learned Standing Counsel. However, having realized that order of this Court was violated and building was allowed to be completed, he stated that the respondent-contemnor gives unconditional apology to the Court and that this stage, learned standing counsel requests to file affidavit to that extent. He further states, since earlier interim orders granted by this Court in the writ petitions instituted by the owner of the building are no more surviving, the concerned officer will take steps to comply the provisions of Section 340-A of the Municipalities Act.”

6. Pursuant to the said order, the Municipality issued a notice under Section 340(a) of the Andhra Pradesh Municipalities Act, 1965, directing the seizing of the premises.

7. Therefore, the 3rd respondent in the writ petition and his wife, who were not parties to the contempt proceedings, have come up with the above appeal under Clause 15 of the Letters Patent, seeking, in the present application, leave to prefer an appeal in which they are challenging an order to which they were not parties.

8. Mr. Vedula Venkataramana, learned senior counsel appearing for the petitioners, contended that in a suit filed by the petitioners, the petitioners have already secured an interim order of injunction against any action being taken by the Municipality and that in a contempt to which they were not parties, the 1st respondent has

secured an order on 03-07-2017, the implication of which was directly upon the petitioners herein.

9. We have carefully considered the above submission.

10. It may be true that the notice dated 14-07-2017 issued under Section 340 (a) of the A.P. Municipalities Act, 1965 maybe a sequel to the order passed on 03-07-2017 in C.C.No.2020 of 2015. But the contempt proceedings are basically between the Court and the contemnors. The learned single Judge was very careful also to note that there was a vacate petition pending before the Civil Court. Therefore, if the notice issued on 14-07-2017, under Section 340 (a) of the Act is contrary to any order passed by any other Court, the petitioners should workout their remedies independently against that order. The order passed in the contempt proceedings cannot be challenged by the petitioners, as the same may ultimately benefit the contemnors. The contemnors will have to an independently satisfy the Court in a contempt proceedings that they had not committed any contempt. Any consequential action taken by the contemnor will have to be independently questioned by the petitioners.

With the above observations, this application for leave is dismissed. Consequently, L.P.A.No.6 of 2017 is also dismissed.

V. RAMASUBRAMANIAN, J

N. BALAYOGI, J

Date: 24-07-2017
Ksn