

HON'BLE SRI JUSTICE P.NAVEEN RAO

C.C. No.179 of 2016

Date:03 07.2017

Between :

Muthyam Laxmaiah, S/o Muthyam Mallaiah,
Aged 62 years, Occ : Agriculture,
H.No.2-68, Komuravelli Village,
Cherial Mandal, Warangal District.

.... Petitioner

And

Vijay Sagar,
Tahasildar, Cherial Mandal,
Warangal District.

.... Respondent



This Court made the following :

HON'BLE SRI JUSTICE P.NAVEEN RAO**Contempt Case No.179 of 2016****ORDER :**

The writ petition was filed alleging threat of demolition of two shops owned by the petitioner in an extent of 100 square yards bearing premises No.10-82/1 of Komurvelli Village, Cherial Mandal in Warangal District, without following the due process of law.

2. This Court by order dated 9.10.2015, while issuing notice before admission, granted interim stay as prayed in W.P.M.P.No.42723 of 2015. The prayer in the W.P.M.P. was not to demolish the two shops mentioned above.

3. Alleging that the said order is violated and two shops mentioned above were demolished, this Contempt is filed. In paragraph-4 of the affidavit filed in support of the contempt, the petitioner contends that though the petitioner and his family members obstructed, shown copy of the order and requested the respondent not to demolish his shops, the respondent and his staff did not care to the request of the petitioner and illegally demolished the said shops. In support of the contention that demolition took place contrary to the directions issued, even though the order was within the knowledge of the respondent, reliance is placed on the news item published in Nava Telangana Newspaper, dated 12.10.2015.

4. In the affidavit filed by the respondent, the respondent asserts that he was not aware of the order passed by the Court when demolition took place and that a copy of the order was actually communicated to him by way of registered post on 16.10.2016. He denies the allegation of informing about the order passed by the Court when the demolition took place. The respondent contends that there was no protest in writing either with the higher authorities or with the police. He further asserted that initially the petitioner gave an undertaking for demolition of the subject property and thereafter, sought time for demolition and the demolition was taken place after the time granted to the petitioner was lapsed.

5. The fact that the demolition took place on 11.10.2015 is not in dispute. The only issue is whether the respondent is aware of the order passed by the Court and a copy of the order was communicated to him before the demolition took place. There is no proof in support of the contention of the petitioner that a copy of the order was furnished before the demolition.

6. The counsel for the petitioner sought to contend that the fact that the petitioner and his family members protested on the date of demolition would show that they were present and since the order was already passed, they would have brought to the notice of the concerned authority about passing of the order and thus, the concerned authority was aware of the order passed.

7. In contempt proceedings there has to be clear proof of communication of the order passed by the Court to the concerned authority before an allegation of violation of the said order is made. The submission of the counsel for the petitioner that as the petitioner and his family members were present, the petitioner would have communicated the order, cannot be accepted to hold the respondent as guilty of violating the orders of the Court in the absence of clear proof of intimation to the respondent about the order passed by the Court. On the contrary, according to the respondent, a copy of the order was actually communicated to him by way of registered post only on 16.10.2016, which statement is not controverted.

8. In the above analysis, it cannot be said that there was willful and deliberate disobedience of the orders of this court warranting initiation of proceedings of contempt under the Contempt of Courts Act, 1971.

9. The Contempt Case is accordingly closed. However, it is open to the petitioner to raise all the contentions available in law in the pending writ petition. There shall be no order as to costs. Miscellaneous petitions if any pending shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 3.7.2017

skmr