

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

CONTEMPT CASE No.2026 OF 2015

Dated:29.12.2017

Between:

Osuri Devendra Phanikar,
S/o. Gangadharam, Aged
about 58 years, Occ: Agriculture,
R/o.11-4-37, Osuri Mansion,
21 Ward Peechupalem, Narsapur,
West Godavari District

.. Petitioner

And

Sri KVVR Raju, S/o. not known,
Aged about 45 years, Occ: Municipal
Commissioner, Narsapur Municipality,
Narsapur, West Godavari District and others

.. Respondents



The Court made the following:

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ORDER:

By order dated 12.10.2015, the Court directed the respondent – Municipality to take all precautions to ensure that there is no encroachment to the land of the petitioner; no wastage can be dumped in an open area without taking proper measures and they shall take immediate steps to fence the area and proper protection so that the wastage dumped there would not fly and affect the land of the petitioner. Alleging disobedience of the said directions, this Contempt Case is filed.

2. Counter affidavit is filed explaining the steps taken by the Municipality in compliance of the directions of the Court. Copy of the order passed by this Court on 19.01.2016 disposing of the Writ Petition is also placed on record.

3. While disposing of the Writ Petition, the Court observed as under:

“... From the facts pleaded in the counter affidavit and the photographs filed by respondent No.1, this Court is convinced that as undertaken on 19.11.2015, respondent No.1 has taken proper precautions to clear the garbage from the petitioner’s land and also to prevent garbage from entering into the petitioner’s land. However, if the petitioner is not satisfied with the measures taken by respondent No.1, he is entitled to pursue the suit already filed by him or he can even file a comprehensive suit claiming damages from the alleged death of the coconut trees as well. The petitioner is also entitled to pursue the Contempt Case stated to have been filed by him against respondent No.1 before this Court.”

4. From the order of the Court, it is seen that the very issue was contested even in the Writ Petition and the Court was satisfied with the measures taken by the Municipality and therefore the Writ Petition was disposed of recording the same. However, having regard to the submission made on behalf of the petitioner that the Contempt Case is pending, the Court granted liberty to pursue the same.

5. Extensive submissions are made by learned counsel for the petitioner contending that even now the measures, as directed by the Court, are not taken.

6. In the affidavit filed on behalf of the respondent – Municipality, the measures taken by the Municipality are enlisted in paragraph Nos.5 and 6. There is categorical denial of the allegations made by the petitioner. It is asserted that the Municipality is not dumping any urban wastage in the land of the petitioner.

7. On 24.11.2017, adjournment was sought to go through the additional affidavit filed by the Municipality and to make submissions. Though sufficient time is granted, no material is placed on record to discredit the stand of the Municipality as reflected in the affidavit deposed by Sri Ghanta Srikanth, working as Municipal Commissioner. As noted above, this Court, while disposing of the Writ Petition, also recorded the steps taken by the Municipality and the Court was satisfied with the measures taken in compliance of the directions issued.

8. Thus, it cannot be said that the respondent – Municipality has violated the directions issued by this Court deliberately and

willfully warranting initiation of proceedings under the Contempt of Courts Act, 1971.

9. The Contempt case is accordingly closed. The 3rd respondent is discharged.

P. NAVEEN RAO, J

Date:29.12.2017

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