

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CONTEMPT CASE NO.514 OF 2017

Date: 21.08.2017

Between:

Pailla Gopal Reddy, S/o Yadireddy,
Aged 39 years, Occu: Business,
R/o Sri Raghavendra Swamy Complex,
Sagar Road, Miryalguda, Nalgonda district.

..... Petitioner

And

C.Satya Babu, Commissioner,
Miryalguda Municipality,
Miryalguda, Nalgonda District.

.....Respondent



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CONTEMPT CASE NO.514 OF 2017

ORDER:

Petitioner is the owner of Sri Raghavendra Swamy Complex, Miryalguda. Petitioner had grievance regarding determination of property tax by the Miryalguda Municipality. According to the petitioner, property tax demand notice was issued on 03.11.2014 retrospectively from the year 2012 and demanded huge amount of arrears due from petitioner and penalty was levied. He was served with further notices. While so, alleging coercive action, petitioner earlier filed W.P.No.9949 of 2016. Having noticed that the revision was not filed, as required by the Taxation Rules, said Writ Petition was disposed of, granting liberty to the petitioner to file revision and also directed to deposit an amount of 1,70,000/-. Alleging that when petitioner went to deposit the amount, respondent refused to receive the amount, petitioner filed W.P.No.19747 of 2016. The said writ petition was disposed of on 21.06.2016. On 29.09.2016 Commissioner passed orders rejecting the request of the petitioner and he was directed to pay the amount quantified in the proceedings. The said order of the Commissioner was assailed in W.P.No.41552 of 2016. On considering the rival claims, writ petition was allowed by judgment dated 13.12.2016. The Commissioner was directed to comply with the earlier orders of this Court and to pass appropriate orders after duly taking note of the objections filed by the petitioner. Further direction was issued to give personal hearing with advance notice of date of hearing and after consideration of the submissions made by the petitioner, appropriate decision should be made by assigning reasons in support of the decision. The Commissioner was also cautioned to be careful in future and if such a conduct comes to the notice of the Court in any other proceedings, matter would be

viewed seriously. The Court further directed that until the decision is made and communicated to the petitioner, no coercive action should be taken against petitioner.

2. While so, demand notices dated 28.02.2017 were served on tenants of petitioner demanding them to pay property tax of 27,69,150/- within three days and threatening them that failing which appropriate penal action would be taken. It is alleged that this would itself amount to violating the directions of the Court. It is further alleged that on 07.03.2017, the respondent authorities came to the business premises of the tenants demanding to pay the property tax, failing which they would close the business premises. Alleging violation of the said directions and taking coercive action, this contempt case was filed on 08.03.2017.

3. In response to the notice issued in the contempt case, counter-affidavit is filed. In the counter-affidavit, it is averred that due to pressure of work and oversight, erroneously action was taken by the Commissioner by issuing notices to the tenants and there was no intention to disobey the order of the Court. It is also stated that the Municipal Revenue authorities were directed not to take any further action in view of the High Court directions. It is relevant to note at this stage that the raid conducted on subject premises and seizure of articles from the tenants of petitioner and disciplinary action taken against his subordinates were not stated in the said affidavit.

4. In reply, petitioner contended that in fact, raid was conducted on the premises by the Municipal staff by bringing Municipal Vans and many articles from the premises of the tenants were seized and removed on 15.03.2017 and the same was widely reported in local

newspapers on 16.03.2017. This would amount to clear contempt of directions of the Court by the Commissioner.

5. In the additional counter-affidavit, the respondent deposed that the raid was conducted without his knowledge and as soon as it came to his notice, show-cause notice was issued to concerned subordinates calling for their explanation. It is averred that after coming to know the seizure of the articles, the same were immediately returned. It was categorically asserted that action taken by the subordinate staff was without his knowledge. Along with the additional counter-affidavit, show-cause notice issued on 31.05.2017 and explanation filed by them on 05.06.2017 were enclosed.

6. Learned counsel for petitioner contends that the narration of events, as noted above, would clearly disclose that within the knowledge of the Commissioner, those steps were taken. He further contends that Commissioner committed contempt by serving notices on the tenants; he deliberately ordered for removal of articles from the premises of the tenants. He further submits that issuance of show-cause notices to employees and calling for the explanation is all subsequently invented only to show as if he was not responsible and his subordinate staff were responsible. Learned counsel also contends that earlier also the Commissioner acted in careless manner and having noted the same, this Court warned him to be careful in future, but the Commissioner continued to behave in the same manner in disregard to the directions of this Court. He, therefore, submits that Commissioner has violated the orders of this Court deliberately and willfully and is therefore liable to be punished.

7. Learned standing counsel sought to justify the events that took place by contending that action of seizing and removing articles was

not within his knowledge and it was done by subordinate staff on their own and that he was acting *bona fide*. It was not within his knowledge when the raid was conducted on the subject premises and soon after he came to know the same, he has re-delivered the articles seized and also initiated disciplinary action against the employees. He, therefore, submits that what has happened after the orders of this Court was not deliberate and willful and at any rate, the respondent offers unconditional apology for the illegalities committed by his subordinates.

8. As noted above, the directions of this Court were issued on 13.12.2016. Admittedly, demand notices dated 28.02.2017 were served on the tenants of petitioner. On 08.03.2017, this contempt case was filed. Immediately thereafter, on 15.03.2017 tenants' establishments were raided. The photographs filed along with reply affidavit would disclose that large number of employees of respondent Municipality went to the premises of the petitioner by taking Municipal Vans and removing the articles from the premises. Large contingent of employees were also seen in the photographs.

9. Learned standing counsel would submit that instructions were issued by the Commissioner and Director of Municipal Administration to recover the tax dues from the defaulters and having regard to the 31st March deadline, teams were formed to undertake raids on the properties, who defaulted in payment of municipal tax. Apparently, all this exercise could not have been done without the knowledge of the respondent. This respondent was aware of orders of this Court insofar as subject property is concerned. Thus, it cannot be said that respondent has no knowledge when the raid was conducted on the premises of the petitioner. Furthermore, it is seen that according to

the petitioner, issuance of notice on 28.02.2017 itself was erroneous and amounting to violation of orders of this Court. Respondent also repents on issuing such demand notice. This contempt case was filed on 08.03.2017. Soon thereafter the raid was conducted. Large number of staff participated in the raid. Now if what is stated by the respondent is true, he could not have waited to issue notices to the employees till 31.05.2017, assuming such notices were issued on said date, and even though the explanation was received by them on 5.6.2017 to keep quiet on taking further action. Furthermore, counter-affidavit was deposed on 12.06.2017, i.e., after the raid was conducted on the premises and according to respondent, show-cause notices were issued and explanations were received prior to said date. If what is stated by the respondent is true, the same could have been reflected in the counter-affidavit. It appears from this that even the show-cause notice and the explanations were invented to cover up the earlier mistakes committed by the respondent. Repeatedly though learned standing counsel was asked to clarify, he is unable to answer as to what action was taken and why same is not reflected in the earlier counter-affidavit, except for contending that counter-affidavit was filed by referring to the contentions urged in the contempt case. This also would show lack of *bona fides* of the respondent. Even according to the respondent, what was done by subordinate staff was not within his knowledge and really if he had any *bona fides* in complying with the directions, action taken against the employees ought to have been reflected in the counter-affidavit, deposed on 12.06.2017.

10. Further more, as Commissioner of the Municipality, he is responsible for all actions that are taken by his subordinates. Furthermore, it cannot be said that issue of conducting raid on 100

defaulters in the Municipality and formation of teams with large contingent of staff and vehicles could not have been done without the knowledge and direction of the Commissioner. Therefore, the stand of the respondent that what happened on 15.03.2017 was not within his knowledge is not acceptable. Further stand of the respondent that it was not intentional and it was only a *bona fide* mistake, is also not acceptable. Therefore, I am of the considered opinion that what was done by the respondent amounts to deliberate and willful disobedience of the directions of this Court.

11. Having regard to the history of the case and events that are noted above, the apology offered is also not *bona fide* and this Court is not inclined to accept the apology offered by the respondent and it is intended only to wriggle out of the position in which he is now on account of his own conduct.

12. Having regard to these facts, respondent is found guilty of committing contempt of directions of this Court issued in W.P.No.41552 of 2016, dated 13.12.2016. He is sentenced to suffer simple imprisonment for a period of 15 days and fine of 2000/- (Rupees two thousand only), in default, he shall suffer simple imprisonment for a period of seven days. The subsistence allowance is fixed at 300/- (Rupees three hundred only) per day, to the respondent to be borne by the petitioner under Rule 32 (3) of the Contempt of Court Rules, 1980.

13. The Registrar (Judicial) is directed to take necessary steps for execution of this order under Rules 31 and 33 of the said Rules.

14. At this stage, learned standing counsel prayed to suspend the order for four weeks to enable contemnor to prefer appeal. At the

request made by the learned standing counsel on behalf of respondent, operation of sentence of 15 days imprisonment and fine is stayed for a period of three weeks.

JUSTICE P.NAVEEN RAO

Date: 21.08.2017
kkm



HON'BLE SRI JUSTICE P.NAVEEN RAO



CONTEMPT CASE NO.514 OF 2017

Date: 21.08.2017

kkm