

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CONTEMPT CASE No. 489 of 2013

ORDER:

1) The Panchayat Secretary, representing Manikonda Gram Panchayat, filed this Contempt Case under Sections 10 to 12 of Contempt of Courts Act seeking to punish the respondent for his willful disobedience of the order, dated 08.02.2013 passed in W.P.M.P.No.1194 of 2013 in W.P.No.980 of 2013.

2) In order to appreciate the circumstances, which lead to filing of the contempt case, it is necessary to refer to certain facts.

3) The respondent herein filed W.P.No.980 of 2013 questioning the action of the petitioner herein, who is the second respondent in W.P., in trying to demolish the building constructed by him, without issuing any notice inspite of the permissions being granted by the Grampanchayat, as illegal and arbitrary. The petitioner in the writ petition claims himself to be the owner of land in Survey No.262/ of Manikonda village vide Gift Deed No.11981 of 2006 dated 31.05.2006. He is said to have constructed residential flats admeasuring 1120.05 sq. yds. It is his case that after obtaining necessary permissions from the Grampanchayat and after paying the requisite fee, permissions were issued on 01.06.2007. The permission was granted for raising four storied residential complex. It is said that the second respondent without issuing any notice to the

petitioner is trying to demolish the residential complex. It was informed by the 2nd respondent, that the permission granted to the petitioner was not traceable in the office of the Grampanchayat and as such they are entitled to demolish the same without issuing any notice to the petitioner. Challenging the action of the authorities in trying to demolish without following due process, the writ petition came to be filed.

3.1) By an order dated 10.01.2013, this Court while issuing notice before admission granted interim directions as prayed for, for a period of four weeks. Later, on 08.02.2013 the interim directions were extended as prayed for. But, however it was held that the petitioner shall not use or put to use the offending structures for occupation. It was further held that the petitioner shall not make any constructions either by way of additions or improvements or internal constructions. The petitioner was further directed to take photographs of the existing structure from all the four sides of the building and lodge one such set of photographs with the Grampanchayat, Manikonda and also with the Registrar (Judicial) of this Court, latest before the end of working hours on 14.02.2013(Thursday).

3.2) Pursuant thereto, the photographs were taken and copies of the same were submitted before the Registrar. Since the petitioner has violated the order passed by this Court on 08.02.2013 by raising an additional floor, completed the unfinished portion of the building,

sold the apartments and also let out a part of the building for commercial use, the present Contempt Case came to be filed.

4) On 07.02.2017, when the writ petition along with contempt case came up for hearing, this Court appointed Sri Jalli Kanakaiah, Advocate, to visit the subject premises and to submit a report as to its present status. Pursuant thereto, Sri Jalli Kanakaiah, Advocate Commissioner, visited the subject building and placed on record the certified copies of the registered sale deeds executed by the owner in favour of the purchasers and also the photographs showing as to how the petitioner has violated not only the approved building plan but also the orders of this Court. The report submitted by the Advocate Commissioner shows that though permission was only for G+3, the petitioner raised an additional floor. He also refers to various violations committed by the petitioner. Accordingly, on 28.02.2017 this Court directed the contemnor to present before the Court on 09.03.2017. On 09.03.2017 the contemnor was present and this court heard both the parties including the Advocate-Commissioner.

5) A counter affidavit came to be filed by the respondent denying the averments made in the affidavit filed in support of the contempt case. Though, in the affidavit filed in support of the writ petition, the petitioner claims himself to have proceeded with the construction and development of the land, but in the counter filed herein, a different version is sought to be pleaded. It is stated that one Madhusudhan Reddy approached him and expressed his willingness to

construct the Apartments in his land and assured that he had lot of experience and exposure in the constructions activity. Pursuant to which, the petitioner and his wife entered into a development agreement-cum-general power of attorney with M/s.Amrutha Constructions represented by its Proprietor Sri D.Madhusudhan Reddy, which was registered before the Sub-Registrar of Sherilingampalli vide Doc.No.730 of 2011. It is his case that the entire developmental activity was taken up by the said Madhusudhan Reddy and as per the development agreement, he being a landlord, is entitled for a share of 28.43% of the construction area on floor-wise and as such he is not laible for the same.

6) Be that as it may, it is to be noted that in the writ petition filed by the petitioner, there is a specific direction that he shall not use or put to use the offending structures for occupation and also shall not make any constructions either by way of additions or improvements or internal constructions. The averments in the affidavit filed in support of the writ petition show, that it was he, who has taken up construction of the building. Infact there is no reference to D.Madhusudhan Reddy, in the affidavit filed in support of the writ petition. The petitioner cannot now escape by throwing the blame on a third person. If really he was innocent, there was no need for him to represent in the writ petition that he was constructing the building. The report of the Advocate-Commissioner and the photographs, which are placed before this Court, clearly

establish that there was a gross violation of the interim order passed by this Court.

7) Sri Jalli Kanakaiah, gave a list, showing the names of owners of the flats, who have purchased the same from the petitioner. Xerox copies of the registered sale deeds were also obtained by the Advocate-Commissioner, to prove the said sale. A comparison of the photographs taken at the time of passing of the interim orders with the photos filed by the Advocate-Commissioner along with his report, show that the entire building was completed and put to use thereby violating the interim orders passed on 08.02.2013. The material placed before this Court amply establish disobedience of the orders of the Court. The manner in which the contemnor proceeded with i.e., continuing with the construction, completing the same and registering the flats and letting them out for commercial use are acts which run contrary to the interim orders passed by this Hon'ble Court. Hence, there is no hesitation in holding that there was willful and deliberate disobedience of the orders of the court by the contemnor.

8) In **B.M. Bhattacharjee (Major General) Vs. Russel Estate Corporation**¹, the Supreme Court observed that all the officers of the Government must be presumed to know that under the constitutional scheme obtaining in this country orders of the Courts have to be obeyed implicitly and that orders of the Apex Court for that matter any Court should not be trifled with.

¹ 1993(2) SCC 533

9) The Court is the last resort for a vexed litigant. The fabric of rule of law will remain strong so long as judicial orders are implemented in their letter and spirit. The Courts being sentinels of justice, the orders passed by them need to be implemented at all costs. Protection of rights of the citizens cannot be ensured if the State and its functionaries violate orders of the Courts with impunity. The majesty of Courts is the highest priority for every right thinking person in the society, lest, there will be anarchy in the system. If a judicial order is violated, it has a rippling effect on the dignity and the glory of the judicial institution, which in turn will make the people lose faith in the system itself.

10) As regards the sentence to be imposed on respondent, I have given my thoughtful consideration to the same. Dealing with a case of brazen contempt, the Supreme Court, in **Anil Ratan Sarkar Vs. Hirak Gosh²**, held :

"In the contextual facts there cannot be any laxity, as otherwise the law courts would render themselves useless (sic: useless) and their order to utter mockery. Feeling of confidence and proper administration of justice cannot but be the hallmark of Indian jurisprudence and contra-action by courts will lose its efficacy. Tolerance of law courts there is, but not without limits and only upto a certain point and not beyond the same."

11) As noted above, respondent is remorseless. By this conduct, respondent has seriously undermined the majesty of this Court. Therefore, I feel that it is a fit case where he must be sentenced

² (2002) 4 SCC 21

with simple imprisonment for a period of two months besides paying a fine of Rs.2,000/- (Rupees two thousand only).

12) The Registrar (Judicial) shall take further steps as laid down under Rule 31 of the Contempt of Courts Rules, 1980 for execution of this order.

13) The Contempt Case stands allowed.

C. PRAVEEN KUMAR, J

Dt:11.04.2017
GM

