

HIGH COURT OF CHHATTISGARH, BILASPUR

Contempt Case (Civil) No. 378 of 2017

1. Suresh Chand Tiwari S/o Late S. Tiwari, aged about 56 years, R/o Plot No. 529/3, Tiwari Firm House, Dadar, Korba, District Korba Chhattisgarh
2. Smt. Sudha Tiwari W/o. Dr. S. C. Tiwari, aged about 51 years, R/o Parsuram Nagar, Dadar Nala, Tahsil and District Korba, Chhattisgarh,

---- Petitioners

Versus

1. Mohammad Kesar Abdul Haque, Collector, Korba, District Korba Chhattisgarh
2. Virendra Bahadur Panchbhai, S. D. M. Korba, District Korba, Chhattisgarh
3. Tularam Bhardwaj, Tahsil Nazul, Korba, District Korba, Chhattisgarh
4. Ravi Shankar Rathore, Nayab Tahsildar, Korba, District Korba, Chhattisgarh
5. Ajay Agrawal, Commissioner, Municipal Corporation, Korba, District Korba, Chhattisgarh
6. M. S. Sidar, Revenue Inspector, Korba, District Korba, Chhattisgarh
7. C. S. Sidar, Patwari Inspector, Korba, District Korba, Chhattisgarh
8. Amarnath Agrawal S/o Ram Avtar Agrawal, aged about 45 years, R/o 04 Mahanadi Vistar Complex, Ghanta Ghar, Korba, District Korba, Chhattisgarh
9. Santosh Thawait S/o Manohar Lal Thawait, aged about 42 years, R/o near Jagannath Mandir, Gram Dadar, Ward No. 31, Korba, District Korba Chhattisgarh

---- Respondents

For Petitioner	:	Shri Awadh Tripathi, Advocate
For Respondents 1 to 3	:	Shri Shashank Thakur, Advocate
For Respondent no.9	:	Shri Surfaraj Khan, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per P. Sam Koshy, Judge

01.03.2018

The contempt petition has been filed alleging the willful and deliberate

non-compliance of the directions given by this Court on 22.06.2017 in WPC No. 1656/2017 and other bunch of petitions decided analogously.

2. The contention of the counsel for petitioners is that on 22.06.2017, in the aforesaid bunch of writ petitions including WP(PIL) No. 23 of 2017, this Court had made the following observations:

“In the meanwhile, the petitioners in the Writ Petitions other than Writ Petition (PIL) No.23 of 2017 and also the Intervenor in the Writ Petition (PIL) No. 23 of 2017 and other cases and also any other person to whom any notice has been issued by the competent authority will be entitled to place objections to the proposed proceeding before the competent authority and it shall be ensured that no demolition shall be effected without completing the due process in accordance with the statutory requirement, including deciding on objections.

If such proceedings have been carried forward, it shall be further proceeded from the present stage. It is clarified that if such procedure has already been adopted, demolition shall be effected only in accordance with law.

It is also clarified that pendency of this bunch of Writ Petitions should not stand in the way of any person aggrieved by any decision taken by the statutory authority challenging it before the competent superior statutory authority.”

3. According to the counsel for the petitioners, after the order was passed by this Court, the respondents have not given any opportunity of hearing to the petitioners and they have straightaway decided the matter treating the petitioners as encroacher and has demolished the structure on the disputed land.

4. For better understanding, it would be relevant to refer to the brief facts of the case. The matter originally arose when a public interest litigation was filed before this Court in respect of the encroachment made on a Public Nala alleging that because of the encroachment, the Nala got reduced substantially leading to great inconvenience caused during rainy season. The respondents were directed to look into the matter and to remove encroachments. The respondent-Authorities were directed to ensure removal of all encroachments vide order dated 26.04.2017. Subsequently, on 11.05.2017 again this Court directed the Officials of the Revenue and other Departments of the State Govt. to ensure for removal of encroachment

after giving encroachers an opportunity of hearing. Finally, the writ petitions got disposed of vide order dated 22.06.2017, the operative part of which has been reproduced in the preceding paragraph.

5. Now, if we look at the reply filed by the respondents, it clearly reflects that subsequent to the earlier two orders passed by this Court on 26.04.2017 and on 11.05.2017, proceedings were drawn and notices were issued to the respondents and which is not disputed by the petitioners. The petitioner had also entered appearance and represented his case. Thus, it cannot be said that an opportunity of hearing was not granted to the petitioners at all. The respondents had entered appearance before this Court and submitted their detail reply along with all the documents including the respective notices issued to the petitioner. Thereafter, having proceeded further and finding them to be encroachers, the work of demolition has been undertaken. The only direction which this Court had granted was that the respondents Authorities should ensure that an opportunity of hearing is given to the petitioners which seems to have been given to them as is evident from the documents enclosed along with the reply of the respondents.

6. Contention of the counsel for the petitioners that subsequent to 22.06.2017 no fresh notice was issued is of no relevance for the reason that vide the earlier order itself, this Court had permitted the respondents to proceed with the proceedings and after giving an opportunity they can undertake the demolition work. Further vide order dated 22.06.2017 it was also clarified that if it has already been done and the opportunity of hearing has already been given to them, it should be further proceeded from the present stage which all the more makes it clear that after 22.06.2017, the need for a fresh notice or a fresh proceeding was not required.

7. Last but not least while the order dated 22.06.2017 was passed, the petitioners were granted liberty to challenge the order before the superior Authority under the statutes which till date they have not availed.

8. This Court thus for all the reasons stated above does not find any merit on the submissions made by the petitioners for initiating a contempt proceeding against the respondents under the provisions of the Contempt of Courts Act. Thus, the contempt petition deserves to be and is accordingly rejected. The respondents stand discharged from the contempt proceeding.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE