

HON'BLE SRI JUSTICE S.V.BHATT

CONTEMPT CASE No.403 of 2018

ORDER:

Heard Mr.Subodh for petitioner and the learned Government Pleader (Revenue) for respondents.

On 08.06.2017, this Court in W.P.No.18358 of 2017 while ordering notice before admission directed the parties not to change physical features (sic of petition schedule) till the next date of hearing.

The writ petitioner filed the instant Contempt Case complaining that the respondents, after receiving the orders of the Court, have changed the physical features of petition land. The making of construction notwithstanding the interim order amounts to wilful disobedience of order of the Court. Hence, the Contempt Case.

The respondents, pursuant to notice ordered on 06.03.2018, are represented by the learned Government Pleader.

The 2nd respondent filed counter affidavit.

Before adverting to the stand taken in the counter affidavit, this Court prefers to excerpt the writ prayer, which reads as follows :-

“..... to issue a writ of mandamus or any other appropriate writ or direction declaring the action of the respondents 3 to 6 in proposing to construct a graveyard in Sy.No.24 of Dharmareddypally Village, Gajwel Mandal, Siddipet District, without following the due process of law as illegal, arbitrary and violative of Article 300-A of the Constitution of India and

consequently direct the respondents not to evict the petitioner without following the due process of law....”.

The reply of 2nd respondent is that Sy.No.24 is classified as Government poramboke land and covers an extent of Ac.3-32 gts., Admittedly, the petitioner was assigned an extent of Ac.2-03 gts, and the details of assignment in Sy.No.24 are stated thus:-

“..... I submit that the total extent of Sy.No.24 is Ac.3.32 gts., which was classified as Government Poramboke land. Out of which, the petitioner was assigned an extent of Ac.2.3 gts., ie., an extent of Ac.1.5 gts in Sy.No.24/ 2, an extent of 23 gts in Sy.No.24/ 3 and an extent of 0.15 gts in Sy.No.24/ 4 and an extent of Ac.0.30 gts was assigned to Mr.Umareddy and an extent of 13 gts in favour of Sara Pambai leaving a net of Ac.26 gts as Government Poramboke land, which is on the western side of the road.....”.

According to the 2nd respondent, the construction of “Vykuntadamam” meant for cremation of dead bodies is covered by 20 gts, in Sy.No.24, which is with the Government and on which the petitioner does not have right and title.

The sum and substance is that the construction of “Vykuntadamam” has nothing to do with the property assigned in favour of petitioner.

The petitioner filed reply affidavit stating that this Court on 08.06.2017 passed the order excerpted above. In spite of receipt of the said order, respondents 1 to 4 have started construction of “Vykuntadhamam” grave yard in the land covered by the irrigation channel in Sy.No.24/6 vide agreement dated 30.06.2017. The land

in Sy.Nos.24/2, 24/3 and 24/4 of Dharmareddipally Village is classified as patta land as per the Sethwar for 1330 Faslī and the petitioner has purchased the said land under registered sale deeds dated 27.03.1980 and 17.08.1987 and his name was mutated in the revenue records and pattadar passbook and title deed were issued by the revenue authorities. The 2nd respondent has allotted an extent of Ac.0-20 gts., out of Ac.0-26 gts., in Sy.No.24/6, which is covered by the irrigation channel, for construction of grave yard “Vykuntadamam” for cremation of dead bodies.

The allegation now made by the petitioner is that the agreement for construction of “Vykuntadamam” was executed on 30.06.2017, admittedly, after the order dated 08.06.2017. The petitioner is complaining that the order of this Court is wilfully disobeyed.

As already excerpted, the writ prayer does not refer to the extent for which the parties were directed not to change the physical features.

The petitioner by referring to mere description of Sy.No.24 cannot and could not expand the consideration of property claimed by petitioner in the present Contempt Case.

When the petitioner has brought to the notice of the Court the alleged disobedience, the Court exercises quasi criminal jurisdiction under the Contempt of Courts Act, 1971. Therefore, the Court before proceeding further ought to be satisfied that the

alleged acts of disobedience constitute wilful and deliberate disobedience of Court order.

Admittedly, the writ petition is pending. The petitioner's grievance is that the proposed activity by respondents violates Article 300-A of the Constitution of India. Along with the counter affidavit, photos of the construction and sub-division of Sy.No.24 are placed on record by 2nd respondent. These are aspects which are considered in the writ petition.

For the present, keeping in view the above inconsistencies in the case pleaded by petitioner, the Court is not convinced or persuaded by the material on record to proceed further in the Contempt Case.

The Contempt Case fails and is accordingly dismissed.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 14-08-2018
Prv

S. V. BHATT, J



