

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE No. 473 OF 2017

ORDER:

This contempt case is filed alleging non-implementation of the order, dated 25.01.2017, passed by this Court in WPMP No.2883 of 2017 in W.P.No.2460 of 2017.

Respondent No.6 filed a counter-affidavit, wherein he states that though he is the resident of H.No.20-1-455, Koka Bazar, Old Kabutar Khana, Hyderabad, the petitioner has misled this Court showing wrong house number viz., H.No.20-1-455/A and that he is not making unauthorised construction at premises bearing Municipal No.20-1-455, 20-1-455/1 and 20-1-455/4/D without obtaining valid permission from the Greater Hyderabad Municipal Corporation (for short 'the Corporation'). He further states that in the cause title of the contempt case, the petitioner has shown his residential address as H.No.20-1-455/A and as a matter of fact, he is in illegal occupation of the premises bearing No.20-1-455, with respect to which, O.S.No.52 of 2008 was filed and decreed against him. He further states that he applied for permission for construction in premises bearing No.20-1-455, 20-1-455/1, 20-1-455/4/D and as on date, the respondent authorities have neither granted permission nor refused the same and there is a tin shed in the existing premises and the petitioner is running a kirana shop in premises bearing No.20-1-455 by illegally

occupying the same. He further states that no construction whatsoever is being undertaken in the premises, and in relation to the existing structures, M/s. Maheswari Seva Trust filed O.S.No.252 of 2016 in the Court of VII Senior Civil Judge, City Civil Court, Hyderabad against the Corporation and the same is pending. He further states that pursuant to the orders of this Court, a notice was issued to him on 07.02.2017 by the Corporation alleging that he is making illegal and unauthorised construction without obtaining any permission, and submitted explanation on 10.03.2017 specifically denying that no constructions are being made and as a matter of fact, in the tin shed in existence, a School is running, and brought to the notice of the Corporation about the orders passed in O.S.No.252 of 2016. He further states that the petitioner had mislead the Court by showing the photographs with respect to the construction being made in the premises bearing No.20-1-395/2 situated at Koka Bazar, Old Kabutar Khana, Hyderabad. He further states that the petitioner has filed various complaints before the authorities concerned and is in the habit of filing complaints not only against the Trust, but also against others for illegal gain and as a matter of fact, it is the petitioner who has occupied the municipal land by constructing a Daba and falsely claiming it to be premises bearing No.20-1-455/A. He denied with respect to the veracity of the photographs filed and the petitioner was put to

strict proof of the same. He also states that he reserved his right to take appropriate steps against the petitioner.

A counter affidavit is filed by respondent Nos.1 to 4 denying various allegations of the petitioner and mentioning the details of the cases filed by respondent No.6. Relevant portion of the same is extracted as under:

“4 (k): It is submitted the present Contempt Petition as well as main Writ Petition filed by the petitioner herein in respect of premises Nos.20-1-455, 20-1-455/4/D and 20-1-455/1 whereas the allegations of illegal construction of slabs and pillars etc., are in respect of premises No.20-1-395/2 as such the Present Contempt Petition is not maintainable. The respondent Corporation is the owner of 20-1-395/2 wherein respondent No.6 has made illegal construction of slabs and pillars etc., but the said premises number is not the subject matter of the present Contempt Petition or main Writ petition. As far as the premises Nos.20-1-455, 20-1-455/4/D and 20-1-455/1 is concerned which is subject matter of the present Contempt Petition as well as main Writ Petition, only illegal shed has been constructed by respondent No.6 herein and the said land belongs to A.P. Housing Board (now Telangana Housing Board). The Telangana Housing Board is necessary party to the Writ Petition.”

Learned counsel for the petitioner, while reiterating the averments mentioned in the writ affidavit as well as the contempt case, asserts that respondent No.6 mislead the Court and has been making construction without any permission.

On the other hand, learned counsel for respondent No.6 categorically asserts that no construction whatsoever being made

either as on the date of the order passed by this Court or thereafter, in the subject premises and that as the photographs shown by the petitioner are with respect to the construction being done in premises bearing No.20-1-395/2, respondent No.6 reserved his right to take steps as and when necessary. He points out that filing number of cases by his client would not prejudice the mind of the Court inasmuch as his client is only exercising his right. He also points out that it is admitted by the respondent authorities that no construction whatsoever being made in the subject premises of the writ petition.

Learned Standing Counsel for respondent Nos.2 to 4 submits that there are disputes pending with respect to premises bearing No.20-1-395/2 and at any rate, the same is not the subject matter of the writ petition and the contempt case, and the same is dealt with at appropriate time.

Having considered the respective submissions and in the light of the specific admission on the part of respondent Nos.2 to 4 that no constructions are being made in the subject premises of the writ petition, the contention of the petitioner that respondent No.6 is making unauthorised construction, much less without obtaining any permission, cannot be accepted. Even assuming for argument sake, if there were any constructions made by respondent No.6, respondent Nos.2 to 4 would be at liberty to

take action in accordance with law, as there being no impediment in the order which is alleged to have been violated. Once there is no construction being made in the subject premises, which fact is not disputed and in fact being admitted, this Court finds no merit in the contempt case. It is not necessary for this Court to enter into the controversy with regard to the petitioner mentioning a wrong house number in the cause title of the contempt case, as the learned counsel for the petitioner submits that there is a typographical error.

In the light of the above, the contempt case is dismissed. However, the observations made in this order shall not be construed as this Court is expressing any opinion with respect to the veracity of the allegations and counter-allegations in the writ petition, which is required to be decided on its merits.

Consequently, miscellaneous applications, if any shall stand dismissed.

CHALLA KODANDA RAM, J

Dt:23.03.2018

Note: Issue cc in one week.

(B/o)

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