

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Contempt Case No.832 of 2018

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This Contempt Case is filed by the 1st respondent in W.A. No. 155 of 2018 alleging willful and deliberate violation of the order in W.A. No.155 of 2018 dated 1.2.2018. While setting aside the order under appeal, this Court had, in its order in W.A. No.155 of 2018 dated 01.02.2018, observed:

“.....Ordinarily an interim relief, which has the effect of allowing the writ petition itself, is not granted at the stage of admission, without giving the appellants a reasonable opportunity of filing their counter-affidavit. Since it now appears, on the basis of the submission of the learned Government Pleader, that the subsequent letter, addressed by the Commissioner of Endowments to the Commissioner and Inspector General of Stamps and Registration dated 05.07.2016, could not be brought to the notice of the Learned Single Judge as the appellants herein were not given an opportunity of filing their counter-affidavit, the order under appeal is set aside and the WPMP is restored to file. The appellants herein shall file their counter-affidavit within three weeks from today. It is open to Sri J.U.M.V. Prasad, learned counsel for the 1st respondent-writ petitioner, to request the Learned Single Judge to take up the WPMP for hearing any day after three weeks from today.....”

Sri J.U.M.V. Prasad, learned counsel for the petitioner, would submit that, since there was a direction to the appellants in W.A.No.155 of 2018 to file their counter-affidavit within three weeks, their failure to file the counter-affidavit within three weeks would amount to willful and deliberate violation of the order passed by this Court in W.A. No. 155 of 2018 dated 1.2.2018. We must express our inability to agree.

The aforesaid order merely permitted the appellants in W.A. No.155 of 2018 to file their counter-affidavit in W.P.M.P. No. 49537 of 2017 in W.P. No. 39945 of 2017 within three weeks from the date of the order. Liberty was granted to Sri J.U.M.V. Prasad, learned counsel for the 1st respondent-writ petitioner, to request the learned Single Judge to take up the W.P.M.P. any day after three weeks. Failure of the appellants, to file their counter-affidavit within the said period of three weeks, notwithstanding, Sri J.V.M.V. Prasad, learned counsel for the petitioner, was permitted to request the learned Single Judge to take up the W.P.M.P. for grant of interim orders. The appellants' failure to file their counter-affidavit would, therefore, not constitute willful and deliberate violation of the order passed in W.A. No. 155 of 2018 dated 1.2.2018.

Learned Government Pleader for Revenue (Assignments) would submit that a counter-affidavit has been filed in the Writ Petition. Sri J.U.M.V. Prasad, learned counsel for the contempt petitioner, would, however, contend that the counter-affidavit was filed only after the contempt case was filed. As a counter-affidavit has been filed in the Writ Petition, Sri J.V.M.V. Prasad, learned counsel for the petitioner can always request the learned Single Judge to take up W.P.M.P. No. 49537 of 2017 in W.P. No.39945 of 2017 for grant of interim orders. We see no reason, however, to proceed against the respondents (appellants in W.A. No.155 of 2018) or to punish them under the Contempt of Courts Act, as we are satisfied that their failure to file their counter-affidavit within three weeks does not amount to willful and deliberate violation of the order of this Court in W.A. No.155 of 2018 dated 01.02.2018.

The Contempt Case is, accordingly, closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

23rd April, 2018

Pnb



**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**



Contempt Case No.832 of 2018

Date:23.04.2018

pnb

