

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

Contempt Case No.884 of 2018

ORDER :

Heard the learned counsel for the petitioner, and the learned counsel for the respondents 1 to 3 and perused the prayer in the Writ Petition with order of this Court dated 07.02.2018, particularly Paragraph No.7 Page 3, and the additional affidavits filed by the respondents 1 & 3 and also the reply affidavit filed by the petitioner.

2. Undisputedly, by proceedings dated 01.04.2018 permission to construct the building was accorded, which no doubt was communicated to the petitioner and acknowledged by him on 30.04.2018. Paragraph No.6 of the order recorded the undertaking of respondent No.2 to Contempt Case as respondent No.3 to the Writ Petition for not going to construct till final approval. As referred supra the final approval was dated 01.04.2018. There is no doubt in the order at Paragraph No.7 while disposing of the Writ Petition there was a direction to the respondents No.1 & 2 therein to consider the representation of the petitioner and dispose of the same and any approval finally given be communicated to the petitioner and meanwhile not to allow respondent No.3,

who is respondent No.2 to Contempt Case, to make any construction. The Contempt Case is filed with photographs, which are enclosures eight in number of Pages 21 to 23, one dated 17.02.2018 and the other dated 10.03.2018. Crucially respondent No.3 to the Contempt Case, who was transferred and relieved from the duty by respondent No.1, has assumed the charge only on that day. That is impossible for him as Incoming Officer or for the Outgoing Officer on that day to monitor, but for if at all from the so-called construction on 17.02.2018 the photographs 1 and 2 clearly show some work is undergoing and the workers are digging the earth by using some JCB.

3. Learned counsel for respondent No.3 submits that the dates of photographs are not correct and the construction not undertaken, pursuant to the undertaking given that was recorded in page No.3 of the order of this Court, and it was long before the giving of undertaking made the construction. The respondents 1 and 3 to the Contempt Case submit that they undertake to remove whatever the deviations to the approved plan. That is the main grievance of the petitioner to satisfy and the same can be recorded and by accepting their apology

the matter may be closed. On conditional apology also tendered by the Contempt Case respondent No.2, who is respondent No.3 to the main Writ Petition, and by recording the same including undertaking of the respondents 1 & 3 this Contempt Case is closed, subject to payment of Rs.60,000/- (Rupees sixty thousand only) to the Army Welfare Fund, India by respondent No.2.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

21.12.2018
MVA