

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.C.No.784 OF 2017

ORDER

This contempt case is filed complaining willful disobedience on the part of the respondents in implementing the orders passed by this Court in WP No.26207 of 2016, dated 05.08.2016.

While disposing of the said writ petition, this Court observed as under:

“In those circumstances, this Court deems it appropriate that interests of justice would be met, if liberty is given to the petitioner to approach the appellate authority as prescribed under the Act and the Rules made thereunder. As and when such appeal is filed, the appellate authority shall consider the same, deal with the objections that are raised by the petitioner with regard to the survey and take into account the fact that the petitioner is a Fishermen Co-operative Society and pass necessary orders within eight weeks from the date of filing of the appeal after giving opportunity to all the parties concerned.”

This Contempt Case is filed on 10.04.2017 and papers were served on the learned Government Pleader for Revenue.

A counter-affidavit is filed by the 2nd respondent stating that survey was conducted on 19.4.2017, after service of notice on the petitioner. It is further stated that the total extent of land admeasuring Ac.106.08cents in R.S.No.77, which was under the control of National College, Machilipatnam (under the control of Endowments Department), was leased out to private persons for undertaking fish and prawn culture. It is also stated that the land in R.S.No.77 is located as Island surrounded by Akhanda Gowtami

Godavari River and hence, it is not possible to fix the boundaries manually, except with the latest survey technology i.e., survey with ETS instruments by taking Global Co-ordinates as reference and to re-fix the boundaries. In view of the same, the delay of 300 days has occurred, which is neither willful nor wanton. The respondents also offered un-conditional apology for the delay.

Learned counsel appearing for the petitioner pointed out that as a matter of fact, the survey itself was conducted after service of notice in this case, which obviously suggests that the respondents have taken first step for implementing the orders of this Court only after service of notice, but not prior to filing of this case.

In normal circumstances, this Court would have accepted the submissions on behalf of the respondents that the delay had occurred only on account of the technical defects, but in view of the fact that survey itself has been conducted only after service of notice on the learned Government Pleader, it can be said that there is inaction on the part of the respondents in implementing the orders passed by this Court. No explanation is forthcoming for the delay.

Admittedly, the order in WP No.26207 of 2016 was passed on 5.8.2016 and the copy of the same was dispatched on 26.09.2016, which was received on 28th or 29th September, 2016 by the respondents. There is almost a delay of about six months in conducting survey. In those circumstances, explanation submitted

by the respondents cannot be accepted as a genuine one. However, considering the plea of the learned counsel appearing for the respondents, the punishment is restricted to payment of penalty of Rs.1,000/- to the credit of the High Court.

In view of the fact that the impugned order has been complied with by the respondents, though belatedly, the Contempt Case is closed.

Miscellaneous petitions, if any, pending shall stand closed.

9th April, 2018
rkk



JUSTICE CHALLA KODANDA RAM