

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE No. 882 OF 2018

ORDER :

This Contempt Case is filed alleging violation of the order dated 06.02.2018 passed in Writ Petition No. 3343 of 2018.

2. This Court, while disposing of the aforesaid Writ Petition directed the respondent authorities not to interfere with the construction of the petitioner subject to petitioner adhering to the sanctioned plan and not making any constructions on the drainage.

3. In the present Contempt Case, the 3rd respondent filed counter-affidavit along with photos showing topography of the site. In the counter-affidavit, it is specifically pleaded that the petitioner is making constructions over the drainage channel by closing the open drainage, which is impermissible. In as much as the petitioner need not cover the drainage, which would cause future defects in cleaning the drainage, the respondents have prevented the petitioner by issuing a notice on 13.03.2018 not to make any further constructions. After considering the objections filed by the petitioner, the notice was confirmed stating that the petitioner is making constructions by violating the orders of this Court.

4. Now, the question that falls for consideration is whether there is any deliberate and wilful disobedience on the part of the respondents in preventing the petitioner from making constructions on the drainage.

5. Though learned counsel for the petitioner asserts that the petitioner has spent huge amount to purchase the property through a registered sale deed, dated 08.10.2014, he cannot be permitted to make constructions on the drainage. This Court has not taken a view that the petitioner can be permitted to make constructions on the drainage channel on the ground that the respondents have not taken any action against the neighbours, who have made constructions on the drainage. The sale deed, which is annexed to the contempt petition, is filed as a material document. In the schedule, it is shown that the subject property is bounded by North: a 100 feet PWD road, South: vast private property, East: private property and West: shop of one Anem Anjaiah. There is no whisper about the existence of the drainage passing through the land of the petitioner. This document is the basis for panchayat authorities to grant initial permission. Though learned counsel for the petitioner contends that the property is a private property and constructions are being made in a private property, which is inclusive of drainage passing through his property, it is well settled that the public drainage is vest with the local authorities and in all practical purposes, the same shall be treated as public property by virtue of the statutory provisions.

6. In the circumstances, even assuming that the drainage is passing through the petitioner's property, the petitioner having fully aware of this, purchased the subject property. The same is not disputed. The drainage is existing for more than eight years. In those circumstances, there is no wilful disobedience of the order of

this Court by the respondents in not permitting the petitioner for making constructions on the drainage. In the circumstances, there is no contempt much less wilful disobedience of orders of this Court.

7. Accordingly, the contempt Case is dismissed. Miscellaneous petitions, if any, pending in this contempt case shall stand closed.

CHALLA KODANDA RAM, J

JUNE 08, 2018
YVL



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM



CONTEMPT CASE No. 882 OF 2018

Date:08.06.2018

YVL