

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CONTEMPT CASE NO.356 OF 2017

Date: 05.01.2018

Between :

Saladi Rama Mohan Rao s/o. late Narayana Rao,
Aged 43 years, Occu: Cultivation, R/o.3-211/1,
Old Ramalayam Street, Kothapeta, East Godavari
District.

.... Petitioner

And

Ch.Arun Kumar, District Collector, East Godavari
District, Kakinada and others.

.... Respondents



This Court made the following :

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ORDER:

In the Writ Petition No.42598 of 2016, petitioners ventilated their grievance that the respondent authorities and the 8th respondent-society are trying to obstruct the free passage to the property belonging to the petitioners and undertaking construction of Horticulture market yard in between the agricultural lands of the petitioners and the road, on the road margin and the same would be obstructing ingress and egress to the petitioners property.

2. When the matter was taken up for consideration, on behalf of Roads and Buildings Department, learned Assistant Government Pleader represented that the respondents would follow due procedure as required in law before constructing the Horticulture market yard and in case the agricultural land of the petitioners is affected, necessary steps would be taken. Recording the said submission, writ petition was disposed of, directing the respondents to follow due procedure before constructing the Horticulture market yard and should not cause any obstruction to the property of the petitioners without following due procedure.

3. Alleging violation of the said directions, this contempt case is filed. During the course of hearing of contempt case, on 21.07.2017, as learned counsel for petitioner contended that market yard was constructed without following due procedure and that the construction made is completely obstructing the access to the road from the property of the petitioner and as material placed on record was not clear to ascertain true facts, Court directed the District Collector, East Godavari District to cause physical inspection of the property and to file a report on three aspects mentioned in the order. They read as under:

- i) Whether the market yard constructed was on the road margin ?
 - ii) Whether permission from the Roads and Buildings Department was required before construction of market yard?
 - iii) Whether the construction of the market yard is completely obstructing ingress and egress of the property of the petitioner ?
4. The District Collector filed report dated 21.08.2017. According to this report, to convert any agricultural land belonging to a particular Department for the purpose of any other Department, the consent from the Head of the Department is required to be obtained and no consent was obtained for construction of market yard. He stated that agricultural market yard was constructed without obtaining permission. However, he has also stated that administrative sanction was accorded for incurring expenditure for construction of market yard in the public interest and as informed by the Assistant Director, Marketing, construction of temporary shed for the utility of the ryots in the village was informed to the Deputy Executive Engineer, R & B Department, Kothapet and he has orally accorded permission.
5. As report of the District Collector pointed out that market yard being constructed on the property belonging to the R & B Department without following due process, the contempt case was admitted and appearance of respondents 5 and 6 was ordered. Counter-affidavit is filed by the 5th respondent.
6. As asserted by the respondent authorities, the ingress and egress of subject property of the petitioner is not affected either by construction of market yard or any other activity. Along with the counter-affidavit of 5th respondent, field map of the location and the photographs are enclosed, which would disclose that there is enough amount of space

available to ingress and egress from the subject property and market yard is not obstructing the ingress and egress of the property. To that extent, it cannot be said that construction of market yard is affecting the petitioner in any manner and there is no violation of the directions of the Court.

7. The averments in the counter-affidavit would disclose that no proper marketing facility is available to sell the agricultural products by the farmers in and around the subject place. Though approximately 3200 acres of land is put to use for agricultural and horticulture purposes, there are no marketing facilities. It appears the villagers were demanding to construct proper market yard. The farmers have formed a society called as 'Sri Abaya Anjaneya Kuragayala Ryuthu Sanshema Sangham' Kedarlanka village and the same was registered under the Andhra Pradesh Societies Registration Act. Resolution was passed on 02.10.2016 in Grama Sabha of Kedarlanka village requesting the District Collector for construction of a shelter to serve the requirements at the existing collection area near the subject property. On the proposal made by the Assistant Director of Horticulture Department, the District Collector had accorded sanction for construction of market yard and ordered approval of 9,61,180/- to the credit of the society on 16.12.2016. The averments in the counter-affidavit would further disclose that society has undertaken construction of market yard. It is asserted that the Department has not constructed the market yard as alleged, but Department has facilitated the provision of funds for construction of market yard.

8. In the above facts, the issue for consideration is whether construction of market yard is in violation of the directions of the Court ?

9. As noted from the order of the Court, Court recorded the statement of learned Assistant Government Pleader on behalf of Roads & Buildings Department.

10. According to the 5th respondent, market yard was not constructed by the Horticulture Department, but it was constructed by the farmers' society, but it only facilitated the funds being made for construction of market yard. Even according to the report of the District Collector, oral sanction was obtained from the Deputy Executive Engineer, R & B Department for construction of market yard. As can be seen from the averments in the affidavit filed by the petitioners in support of the writ petition, particularly in paragraph-11, even by the time the writ petition was instituted, petitioners were aware that the farmers' society was intending to construct market yard. The farmers' society was arrayed as 8th respondent. In paragraph-11, it was asserted that "yet non-official respondents are preparing to make constructions and the official respondents are not initiating any action and perpetuating the illegality". Though petitioners were aware of construction of market yard by the society, no direction was sought against them in the writ petition and the society is not arrayed as respondent in the contempt case. The facts on record would disclose that actually construction is not made by the official respondents, but was made only by the non-official respondents in the writ petition, against whom no direction was sought and is not a party to the contempt proceedings. Furthermore, the record would disclose that at least there was oral permission from the R&B Department for construction of market yard.

11. In the facts of this case, it cannot be said that construction of market yard is in violation of directions of this Court by the official respondents and much less there is wilful and deliberate violation

warranting initiation of contempt proceedings under the Contempt of Courts Act. Respondents are accordingly discharged. Contempt Case is closed.

Miscellaneous petitions if any pending in the contempt case shall stand closed. No costs.

JUSTICE P.NAVEEN RAO

Date: 05.01.2018
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