

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CONTEMPT CASE No.1294 of 2018

ORDER:

The petitioners are the decree holders in the civil lis covered by SA.No.1168 of 2011. The respondent is the Circle Inspector-SHO by name B.Shankaraiah of Dundigal PS. This contempt petition is filed alleging that he is liable for the punishment for the willful disobedience of the orders of this Court in SAMP.No.2159 of 2017 in SA.No.1168 of 2011 dated 16.04.2018.

The affidavit of the petitioners in filing the contempt case speaks that the deponent-1st petitioner on behalf of the three petitioners giving the affidavit acquainted with the facts that they are the absolute owners of 19 acres of land in S.Nos.246(P), 247(P), 249(P), 250(P), 251(P), 252(P) and 268(P) of Bowrampet Village, Qutubullapur Mandal (presently Gandhi Maisamma Mandal), Medchal (presently Malkajgiri District), which is covered by the civil lis in OS.No.418 of 1996 on the file of I Additional Senior Civil Judge, Ranga Reddy District, for permanent prohibitory injunction restraining the defendants therein against interference with the plaintiffs possession and enjoyment and the same was decreed and the defendants carried the matter in AS.No.17 of 2008 and the learned I Additional District Judge, Ranga Reddy District, allowed the appeal by reversing the judgment dated 14.06.2011 and the plaintiffs aggrieved thereby maintained

SA.No.1168 of 2011 and this Court in the SA pending granted temporary injunction order dated 28.09.2011 pending disposal of the SA and temporary injunction order pending SA was made absolute on 04.03.2013 and the injunction order is in their favour and against the defendants pending disposal of the SA. It is to restrain the defendants of the suit from interfering with the plaintiffs/appellants possession and enjoyment, they sought police aid that was granted in SAMP.No.2159 of 2017 dated 16.04.2018 for effective enforcement of the injunction order pending disposal of the SA, where directed the police-respondent to provide police protection and even the petitioners furnished copy of the order and made a representation dated 09.05.2018 requesting the respondent to grant police aid, it was deliberately violated and respondent it appears is colluded with the defendants, the defendants are forcibly removing the fencing over the suit land and attempting to dispossess the plaintiffs/appellants from the suit land and unless the police act to the representation of the petitioners pursuant to the order of this Court to provide police aid dated 16.04.2018, thereby to implement the order as the implementing authority violated having left with no option seeking by filing contempt case for their willful disobedience to pass appropriate orders including any further order forthwith to direct to police protection.

The counter filed by the respondent Inspector of Police, Dundigal PS, by name B.Shankaraiah is while saying he got respect for the law and order and never intentionally or deliberately floated or disobeyed the orders of the Court and if at all there is any inadvertence he placed on record his sincere and unconditional apology. He refers to the order granting police aid and the observations in relation to the property of 19 acres in question and states that on the dates police officer visited the spot, several persons came forward and they are in possession of various portions covered by registered sale deeds and large number of persons kept away from the spot by the police for the enforcement of the orders of this Court that is covered by video recording. The contention of the learned counsel for the petitioners in CC of police are not acting in the matter is thereby not correct and video coverage proves the same including when Poclain/JCB for removal of structures that was stopped and it is stated the property is vacant land and partly with structures and constructions and there are several layouts, societies etc., that are laying claim to the said land and complaints also received by police against petitioners herein of they are attempting to dispossess those persons from various plots claimed to have been purchased by said persons. The petitioners agreed for a detailed survey that should be carried out. There is no collusion between the defendants to the suit and the police as alleged or apprehension for same is baseless

and denied for the apprehension is incorrect. It is also averred that the allegation of attempted by defendants to forcibly removing the fencing over the suit land is denied so also for alleged non-acting pursuant to the order dated 16.04.2018. It is stated on account of lack of identity of the property as well as several persons claim bits and pieces over property with structures therein and for no clear cut demarcation of the boundaries there may be apprehension on the part of the petitioners and those are unfounded. It is further reiterated of he got utmost respect to the orders of the Court and not at all disobeyed and even if at all comes to the conclusion of any inadvertence, disobedience expressing unconditional and sincere apology, therefore sought for closure of the petition and to pass such other just orders.

Undisputedly, the SA is pending and undisputedly pending the SA, there is a temporary prohibitory injunction order against the defendants i.e., respondents to the SA. A prohibitory injunction is practically to maintain the existing status quo as on date of injunction order passed and not to restore status quo anti for not a mandatory injunction relief.

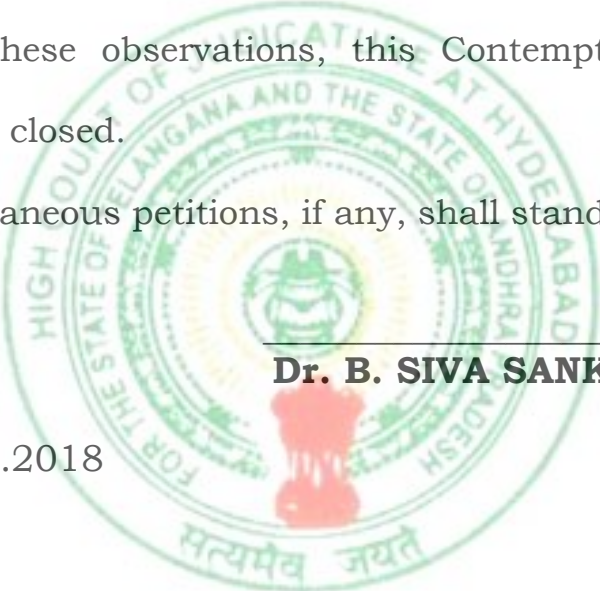
The police once there is a order of Court granting injunction and there is a direction to provide police aid for implementation of the prohibitory injunction for any dispossession of them, they are bound to provide police aid. Needless to refer to the reply affidavit in denying the same of the counter affidavit with photos also filed by the petitioners

to the contempt petition against the so called contemnor respondent police officer.

It is made clear that the respondent shall provide necessary police aid as and when required by the petitioners to see that the defendants or any others on behalf of the defendants shall not interfere in any manner to dispossess the petitioners from the property pending disposal of the said SA unless there is a modified order passed in the second appeal.

With these observations, this Contempt Case before admission is closed.

Miscellaneous petitions, if any, shall stand closed.



Dr. B. SIVA SANKARA RAO, J

Date: 17.09.2018
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