

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE No.425 of 2017

ORDER:

This Contempt Case is filed alleging violation of the order, dated 24.01.2017 passed by this Court in Writ Petition No.46334 of 2016.

It is to be noted that based on the averments mentioned in the affidavit filed in support of the Contempt Case and taking into consideration the submission of the learned counsel for the petitioner, this Court is of the *prima facie* opinion that there is a violation of the aforesaid order on the part of the second respondent only and thereby, dismissed the present Contempt Case insofar as the first respondent is concerned vide order, dated 20.12.2017.

The second respondent filed a counter-affidavit specifically asserting that no notice was issued to him in the Writ Petition filed by the petitioner and he had no knowledge as to the disposal of the Writ Petition at the stage of admission, by the aforesaid order of this Court; that on 15.05.2016 and 22.05.2016, the municipal authorities came to the subject land and threatened him to dismantle the compound wall without issuing any notice, as such, he filed a suit in the Vacation Court seeking perpetual

injunction and the Court below granted status quo order in I.A.No.141 of 2016 in O.S.No.114 of 2016 on 25.05.2016 initially for a limited period and thereafter, the same was extended from time to time and now, the case has been made over to the Court of learned Principal Junior Civil Judge, Sircilla, and re-numbered as O.S.No.105 of 2016 and the same is pending and that Writ Petition No.46334 of 2016 came to be filed on 27.12.2016 and closed on 24.01.2017, by which date, the status quo order was subsisting.

Heard learned counsel for the petitioner and learned counsel for the second respondent.

It is to be noted that the Writ Petition came to be disposed of by the aforesaid order based on the submission of the learned Standing Counsel for Sircilla Municipality that action has already been taken against the second respondent and the compound wall alleged to have been constructed illegally has been removed. It is also to be noted that neither the learned Standing Counsel nor the petitioner had informed this Court about the status quo orders passed by the Court below. Inasmuch as the petitioner was not aware of the said order and in view of the fact that the Writ Petition came to be closed at the stage of admission, by recording the submission of the learned Standing Counsel that the

compound wall alleged to have been constructed illegally by the second respondent has been removed, this Court is of the opinion that the second respondent cannot be found fault with at this stage especially when the status quo order passed by the Court below in favour of the second respondent was subsisting.

In those circumstances, leaving it open to the petitioner to workout the remedies in the civil suit by impleading therein, if so advised, the Contempt Case is closed.

20th MARCH, 2018.

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CHALLA KODANDA RAM, J

