

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

C.C.No.896 of 2017

ORDER :

This Contempt Case has been filed by the petitioner herein alleging willful disobedience of the order dt.12.01.2016 passed in WPMP.No.1337 of 2016 in WP.No.1085 of 2016.

WP.No.1085 of 2016 :

2. The petitioner herein had filed the said Writ Petition stating that he was the absolute owner of property bearing Shop No.21/206-1, situated at Yemmiganur Road, Adoni and that he purchased the same under a registered sale deed dt.01.05.2004. He contended that he is in possession thereof doing business of Xerox and stationery therein; that in the 3rd week of December, 2015, officers of the Adoni Municipality (for short, 'the Municipality') made markings on the wall of his shop without any prior intimation; and when he enquired, he was told that marking was done for the purpose of demolishing the shop for the purpose of road widening.

3. According to petitioner, marking was done up to 14 feet, inside the shop of the petitioner. He contended that if demolition is carried out, it would destroy the entire structure of his shop. He contended that on 30.12.2015, Officers of the Municipality came to his shop and intimated him to vacate the shop premises in ten (10) days as it was bound to be demolished for the purpose of road widening; and that this action of the Municipality would be violative of the provisions of the Andhra Pradesh Municipalities Act, 1965, since no steps for acquiring his property have been initiated.

Interim order dt.12.1.2016 in WPMP.No.1337 of 2016 in WP.No.1085 of 2016 :

4. On 12.01.2016, after hearing the counsel for petitioner and Sri M.D. Saleem, learned Standing Counsel for the Municipality, for respondents, this Court granted interim direction in WPMP.No.1337 of 2016 in WP.No.1085 of 2016 directing the respondents in the Writ Petition, including the Municipality, not to demolish the petitioner's shop without following due process of law.

5. After the said order was passed by this Court, the Municipality issued notice on 10.03.2016 to the petitioner asking him to produce title deeds, link documents, encumbrance certificate, etc., to prove the age of the building, the type of the structure and its topography within one (01) week.

6. The said order was served on petitioner on 11.03.2016.

7. Thereafter, the petitioner submitted his response on 18.03.2016 to the notice dt.10.03.2016 issued by the Municipality, enclosing the documents sought by the Municipality including title deed, encumbrance certificate, document showing the year of construction and life of the building, Municipal Tax receipts, etc. He also stated clearly that he had not encroached any road or other land, and he is the lawful owner and possessor of property in question.

8. On 12.04.2016, the petitioner gave another representation, enclosing copy of the order passed by this Court in the above Writ Petition, to the Commissioner of the Adoni Municipality.

The events of 09.10.2016 :

9. Thereafter, according to petitioner on 8.10.2016 at about 08:00 a.m., the petitioner alleged that the Commissioner of the Adoni Municipality and it's officials came to the petitioner's shop with police officials and started demolishing it taking advantage of the petitioner's absence therein.

CC.No.896 of 2017 :

10. The petitioner contended that he came to know about the demolition from the neighbouring shop owner and rushed to his shop, but by that time, it was demolished without giving any prior notice and in gross violation of the order passed by this Court dt.12.01.2016 in WPMP.No.1337 of 2016 in WP.No.1085 of 2016. He contended that since the demolition took place in his absence, his colour Xerox machine and other equipment therein were stolen and the petitioner was deprived of his source of livelihood.

11. Aggrieved thereby, the petitioner filed the present Contempt Case to punish the Principal Secretary, Municipal Administration and the 2nd respondent (who is the Commissioner of the Adoni Municipality), under Section 12 of the Contempt of Courts Act, 1971.

Re: Respondent no.1 :

12. Since, there is no allegation in the affidavit filed in support of the contempt case against the 1st respondent, i.e., the Principal Secretary, Municipal Administration, State of Andhra Pradesh, the Contempt Case against the 1st respondent is dismissed.

Re: Stand of respondent no.2 :

13. Notice was issued by the Court to the 2nd respondent on 28.4.2017 which was served on the 2nd respondent on 25.5.2017. The learned Standing Counsel for the 2nd respondent sought time on 23.06.2017 for filing counter affidavit. Since no counter-affidavit was filed even by 21.07.2017, notice in Form-I was issued to the 2nd respondent, and the matter was listed to 21.08.2017. On that day, the 2nd respondent appeared and sought two (02) weeks' further time to file counter, and the matter was posted to 04.09.2017.

14. In the meantime, on 01.09.2017 a counter-affidavit was filed by the 2nd respondent refuting the contentions of the petitioner in the Contempt Case. He contended that after this Court passed the order dt.12.01.2016 in WPMP.No.1337 of 2016 in WP.No.1085 of 2016, the Municipality issued notice on 11.03.2016 asking the petitioner to produce certain documents which were submitted on 18.03.2016 and that the reply of petitioner was examined minutely, and it was found that he had encroached the Municipal street and his shop in its entirety was an encroachment. He contended that that he served a notice on the neighbours of the petitioner on 06.10.2016; that petitioner's neighbours by name Sri S. Narayana and Sri T. Shaik Sha Vali got demolished their structures by using a JCB proclainer, and during such operation, the bucket of the JCB proclainer came into contact with the petitioner's shop and it fell down. He contended that though the act of petitioners' neighbors was not deliberate, it resulted in the demolition of the petitioner's shop and that neither himself nor the Municipal Officials entered into the petitioner's building premises; that he had never went near the shop of the petitioner and did not demolish the same; and that it has fallen down

when the adjoining shop structures were removed by petitioners' neighbors. He, therefore, pleaded that he had not violated the order passed by this Court. He also tendered unconditional apology if the Court came to the conclusion that he violated its orders.

Rejoinder of petitioner :

15. A rejoinder affidavit was filed by the petitioner denying the allegation that he encroached upon the Municipal street. He relied on a copy of the Street Surveyor's Sketch issued by the Mandal Revenue Office, Adoni, in that regard. He contended that the land where the petitioner's shop was located was a patta land and there were transactions in respect of the said land even from 1930, and that possession of the premises had been delivered to the vendors of the petitioner pursuant to the orders of the Principal District Munsiff, Adoni in E.P.No.138/83 in O.S.No.252 / 82. The petitioner also denied the allegation that his neighbors demolished his building or that in the process of demolition by neighbors, his shop collapsed.

Order dt.13.10.2017 of this Court in the CC calling for a report from the II Additional District Judge, Adoni :

16. In view of the stand taken by the 2nd respondent, this Court vide order dt.13.10.2017 called for a report from the II Additional District Judge, Adoni on the question whether the shop of petitioner was demolished by the Adoni Municipality, or it came to be accidentally demolished by the neighbors of the petitioner. The said Court was directed to cause an enquiry into the matter; the petitioner as well as 2nd respondent were permitted to place evidence in their possession before it; and the said Court was directed to

submit a report to this Court on or before 22.12.2017. The report dt.16.12.2017 was submitted to this Court by the II Additional District Judge, Adoni.

17. The petitioner deposed in the enquiry before the said Court as PW1. He stated that on 08.10.2016, which was a second Saturday, at about 08:30 or 09:00 a.m., the 2nd respondent and staff came to his shop with JCB proclainer and demolished it without giving him any time to remove his articles from it. He marked Ex.P.6-Photo taken while his shop was being demolished with the help of JCB proclainer. He also filed Exs.P.8 and P.9 – Photos showing presence of Police Officials along with a Town Planning Supervisor by name S. Mahboob Basha and an Attender by name Veeraiah, both employed by the Municipality. He also filed a C.D. containing Ex.P.6 to P.12 Photos. In the cross-examination it was suggested to him by counsel for 2nd respondent that petitioner did not mention in the Writ Petition as well as in the Contempt Case that he raised an objection when the Town Planning supervisor S. Mahboob Basha measured the property of the petitioner by taking centre-point to Police control room and that the photographs Exs.P.6 to P.11 do not show the 2nd respondent. It was also suggested to him that these photographs were fabricated. In his evidence petitioner stated that though affidavits of neighbors by name S. Narayana and T. Shaik Sha Vali were filed stating that while removing their shops, the bucket of the proclainer fell on petitioner's building and it fell down, he stated that the affidavits were false affidavits. He denied that the 2nd respondent did not demolish his property.

18. He examined PW.2 who had a shop 25 to 30 meters away from petitioner's shop. PW.2 stated that there was discussion on 08.10.2016 between the 2nd respondent and petitioner, and that petitioner's shop was demolished with the help of JCB proclainer. He denied that he was absent at the time of the demolition of the petitioner's shop.

19. The petitioner also examined PW.3, a close friend of his, who was having a shop near Bheema's Circle in Adoni. He stated that the petitioner had gone to PW.3's shop to have tea on 08.10.2016, and at that time, the petitioner received a phone call from his son about the demolition and PW3 accompanied the petitioner to his shop. He stated that he found several persons including police officials and municipal officials gathered there, that the petitioner tried to convince them to stop demolition, but they demolished his shop with the help of the JCB proclainer. He denied the suggestion that because he was petitioner's close friend he gave evidence in support of the petitioner.

20. The 2nd respondent examined himself as RW.1 and denied that he demolished petitioner's shop or gave instructions for its demolition. He stated that he had no idea how petitioner's shop fell down. He stated that he did not take any action for demolition of the petitioner's shop in view of the High Court's interim order staying demolition of petitioner's shop. In the cross-examination, the 2nd respondent admitted that himself and staff and police officials were present within 50 feet from the shop of the petitioner in the morning time on 8.10.2016. He identified a Municipal Attender in Ex.P.8-Photograph, two constables and a Town planning Supervisor of the Adoni Municipality in Ex.P9 photograph apart from another municipal

employee in Ex.P6 Photo. He also admitted that the JCB proclainer shown near the petitioner's property in Ex.P.6- Photograph might have been engaged by Municipal staff to the place of demolition of the buildings.

21. The 2nd respondent examined S. Narayana, the neighbour of the petitioner as RW.2, who stated that his house had encroached 14 ½ feet on the Municipal road. He stated that he removed the encroached area himself with the help of proclainer by paying amount and at that time, the wall of the petitioner's shop fell down, and that the municipal authorities did not demolish the petitioner's shop. In cross-examination, he however denied that he was present when municipal officials undertook the process of demolition of buildings. He admitted that the bucket of the JCB proclainer in Ex.P.6-photograph is shown to be in the shop of the petitioner. He stated that he did not see whether municipal officials and police officials were present or not at the time of demolition of the shop of petitioner. He denied the suggestion that he did not remove the encroached portion of his shop and that on account of fear of the 2nd respondent, he was giving false evidence.

22. The 2nd respondent also examined RW.3, another neighbour of the petitioner, who stated that municipal authorities noted the area of encroachment of his shop and he himself removed the said encroachment with the help of JCB proclainer. He stated that at the time of removal of the encroachment wall by him, petitioner's shop fell down and no municipal authorities came to petitioner's shop and demolished it. He stated that petitioner did not engage JCB proclainer to demolish petitioner's shop. He denied that due to fear of municipal officials he was giving false evidence.

23. In his report dt.16.12.2017, the II Additional District Court, Kurnool held that evidence on record indicated presence of 2nd respondent at the time of demolition near the shop of petitioner and that demolition of petitioner's shop was done by the Municipal authorities. He relied on the evidence of the PWs.1 to 3 as well as Exs.P.6 to P.9 to come to the said conclusion. More importantly, he placed reliance on evidence of 2nd respondent (as R.W.1) that municipal staff might have taken JCB proclainer to the place of demolition of the buildings; and also his admission about his own presence along with Municipal staff and police officials 50 feet away from petitioner's shop on 08.10.2016 in the morning time. It also noted 2nd respondent's identification of the Municipal attender, Town Planning Supervisor and two police constables in Exs.P.6 and P.9.

24. The II Additional District Court, Kurnool held that RW.2 was not present near the shop of petitioner at the time of demolition of petitioner's shop and his evidence is not helpful to the respondents. He held that neither RW.2 nor RW.3 mentioned the name of the driver of the JCB proclainer which was used for removal of encroachment of their shops. He also noted that neither of them had stated that they had engaged the JCB proclainer at the time of demolition. Therefore, it concluded that the JCB proclainer appearing in Ex.P.6 Photo, inside the petitioner's shop, is the JCB proclainer engaged by the Municipal officials.

25. He therefore concluded that 2nd respondent was present at the time of demolition of the petitioner's shop near the said shop; that he had knowledge of the High Court's interim order not to demolish petitioner's shop and also the responsibility to prevent it; and yet, he gave no specific instructions to

Municipal staff not to demolish petitioner's shop. He therefore concluded that the Municipal authorities demolished petitioner's shop on 08.10.2016.

26. Objections were filed by the 2nd respondent in the Contempt Case to the report of the II Additional District Judge, Adoni. Though 14 objections were raised, the learned Senior Counsel appearing for 2nd respondent, Sri K. G. Krishna Murthy, stressed much on Objection No.8 which is as under :

"It is submitted that the enquiring officer took the circumstantial evidence into confidence in the absence of any primary evidence. The circumstantial evidence took into confidence by the enquiring officer in the absence of any positive evidence discloses that road widening took place in that area. The same does not disclose as to who demolished PW.1 shop and RW.1 disowned. Circumstantial evidence must be given its due weightage according to the existing circumstances. Circumstantial evidence helps when there is an isolated incident of any character, but here is a case where similar circumstances of demolition took place for about 0.5 kms in the same surroundings on the same day. RW.1 or Municipal Authorities did not interfere with any constructions which are protected by court orders. In such state of affairs, an isolated incident from similar circumstances cannot be proved by circumstantial evidence."

He also contended that at best it is a case of unintentional disobedience by the 2nd respondent of the interim order passed by this Court and in such circumstances, the 2nd respondent cannot be punished for Contempt of Court. He placed reliance on the decision of the Supreme Court in **Dinesh Kumar Gupta v. United India Insurance Co. Ltd. and others**¹ and **B. Sai Anand Prasad v. Sai Krishna General Stores, rep. by N. Krishna Murthy**², to contend that mere disobedience of an order will not amount to contempt of court unless it is willful and contumacious signifying clear disrespect to the order passed by the Court.

¹ (2010) 12 SCC 770

² 2005 (6) ALD 238

27. I have noted the contentions of the parties.

28. It is not in dispute that this Court had restrained the Adoni Municipality represented by the 2nd respondent by its order dt.12.01.2016 passed in WPMP.No.1337 of 2016 in WP.No.1085 of 2016 from demolishing petitioner's shop without following due process of law. This order is within the knowledge of the 2nd respondent as admitted by him in para no.4 of his counter-affidavit.

29. It is the stand of 2nd respondent that the petitioner's structure is an encroachment of the Municipal road. The procedure for removal of such encroachment is mentioned in Section 192 of the Andhra Pradesh Municipalities Act, 1965.

30. It states as under :

"Removal of encroachments:

1. *The Commissioner may cause to be removed or altered -*

(a) any projection, encroachment or obstruction (other than a door, or gate or a necessary access thereto, or bar or ground floor windows) situated against, or in front of such premises and in, or over any street;

(b) any article whatsoever, hawked or exposed for sale in a public place or in any public street in contravention of the provisions of this Act, together with any vehicle, package, box or any other thing in or on which such article is placed.

(2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction under clause (a) of sub-section (1) has existed for a period sufficient under the law of limitation to give any person a prescriptive title thereto or that it was erected or made with the permission or licence of any municipal authority duly empowered in that behalf, and that the period, if any, for which the permission or licence is valid has not expired, the council shall make reasonable compensation

to every person who suffers damage by the removal or alteration of the same.

(3) No decision made or order passed or proceeding taken by the Commissioner effecting removal of encroachments shall be called in question before a civil Court in any suit, application or other proceeding and no injunction shall be granted by any court in respect of any proceeding taken by the Commissioner.”

31. Interpreting this provision, a learned single Judge of this Court held in **Smt. Shafiya Begum v. The State of Andhra Pradesh, Represented by its Principal Secretary, Municipal Administration and Urban Development Department, Hyderabad and others**³ that principles of natural justice have to be read into the said provision. The Court held:

“A plain reading of Section 192 as reproduced above would no doubt show that it does not envisage a prior show-cause notice before the Commissioner exercises his power of directing an alleged encroacher to remove the structure raised by him. However, the law is well settled that before any action, which results in serious adverse consequences to a person, is taken, such person is entitled to a notice and even if a statutory provision does not envisage issuance of such a notice, such requirement must be read into the statutory provision.”

It relied on the decisions of the Supreme Court in **Swadeshi Cotton Mills v. Union of India**⁴, **Uptron India Ltd. v. Shammi Bhan and another**⁵ as well as **D.K. Yadav v. JMA Industries Ltd.**⁶, and held that principles of natural justice have to be read into Section 192 also, even when the statute is silent. It set aside the notices issued by the Atmakur Municipality to the petitioner therein and granted it liberty to issue show-cause notice to the petitioner, consider his explanation and take a fresh decision.

³ WP.No.37161 of 2015, dt.16.11.2015.

⁴ AIR 1981 SC 818

⁵ (1998) 6 SCC 538

⁶ (1993) 3 SCC 259

32. This legal position is not disputed by the Senior counsel appearing for 2nd respondent.

33. It is also settled law that giving of reasons by an Administrative Authority is part of principles of natural justice particularly when his decision is likely to visit adverse civil consequences on any party. This principle has been laid down in several decisions of the Supreme Court. To quote one of them, in **Kranti Associates (P) Ltd. v. Masood Ahmed Khan**⁷, summarised the legal position in the following manner :

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

⁷ (2010) 9 SCC 496

(i) *Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*

(j) *Insistence on reason is a requirement for both judicial accountability and transparency.*

(k) *If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*

(l) *Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.*

(m) *It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor.)*

(n) *Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain EHRR, at 562 para 29 and Anya v. University of Oxford, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,*

"adequate and intelligent reasons must be given for judicial decisions".

(o) *In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".* (emphasis supplied)

34. In the instant case, no doubt notice was issued by the Municipality on 10.03.2016 to the petitioner to produce documents and the petitioner did submit those documents. Thereafter, no reasoned order has been passed stating that the 2nd respondent came to the conclusion that the petitioner was

an encroacher. Thus, there has been a patent violation of the law and principles of natural justice by the 2nd respondent.

35. The objection raised by the 2nd respondent that the Court in its enquiry report relied on circumstantial evidence to come to the conclusion that the Municipal authorities were responsible for the demolition and that this is not proper, is not sustainable for the following reason : the evidence on record indicated that the petitioner was not present when the demolition commenced and Ex.P.6-Photograph showed that the JCB proclainer was in front of the shop of the petitioner and some Municipal officials were also present there. The evidence of PWs.2 and 3 indicated that the 2nd respondent was present at the time of demolition of the shop of the petitioner within 50 mts. of the said shop. The 2nd respondent admitted his presence at the time of demolition of the petitioner's shop, but suggested that the JCB proclainer used for demolition was hired by RWs. 2 and 3. But RWs.2 and 3 did not adduce any evidence to show that they hired the JCB proclainer which was used to demolish petitioner's shop. The 2nd respondent himself admitted that Municipal staff might have taken the JCB proclainer to the place of demolition of the buildings. He admitted the presence of Municipal officials near the premises of the petitioner as well as the presence of the police, as is evidence by Exs.P.8 and P.9. Therefore, the finding of the Court below that the demolition process was undertaken only by the Adoni Municipality authorities with the knowledge of the 2nd respondent, who was physically present at the time of demolition, near petitioner's shop cannot be said to be erroneous. There is direct evidence of PWs 1-3 apart from the admissions of the 2nd respondent to support the finding of the II Additional District Judge, Adoni. I, therefore, hold that the plea of the 2nd respondent that he had no

role in the demolition of the petitioner's shop is a false plea and is liable to be rejected.

36. So in spite of an order passed by this Court on 12.01.2016 in WPMP.No.1337 of 2016 in WP.No.1085 of 2016, the shop of the petitioner came to be demolished by the officials of the Adoni Municipality in the presence of the 2nd respondent, its Commissioner, who was well aware of the order passed by this Court. There is no evidence adduced by 2nd respondent that at the time of demolition he instructed the Municipal Staff and the driver of the JCB engaged by it not to demolish the petitioner's property. There is admittedly no decision communicated to petitioner by the 2nd respondent that the petitioner has been determined to be an encroacher by him.

37. The petitioner has filed sufficient material in the enquiry by the said Court to show that he was not an encroacher and that his vendor was in possession of the property through a Court order in E.P.No.138/83 in O.S.No.252 / 82 on the file of the I Principal District Munsiff, Adoni.

38. It is also not the case of the 2nd respondent that he had complied with the procedure in Sections 228(1) or 228(2) of the Andhra Pradesh Municipalities Act, 1965, which mandate passing of a provisional order for demolition followed by a confirmation order before demolishing the structure.

39. I therefore hold that the 2nd respondent is guilty of willful disobedience of the order dt.12.01.2016 in WPMP.No.1337 of 2016 in WP.No.1085 of 2016 passed by this Court, and that it cannot be said that the disobedience of the same was accidental or unintentional. Therefore, the decisions cited by the Senior Counsel on accidental or unintentional

disobedience by a party not amounting to Contempt of Court, are not applicable.

40. Having found that the 2nd respondent has committed Contempt of Court by willfully disobeying the order passed by this Court dt.12.01.2016 in WPMP.No.1337 of 2016 in WP.No.1085 of 2016, I am of the opinion that relief ought to be granted to the petitioner for also remedying and rectifying the things done in violation of the Court orders.

41. It is settled law that the power conferred on the Court under Article 215 of the Constitution of India to punish contempt of itself necessarily includes all powers incidental and consequential to that power. It is also settled law that on the principle that a contemnor ought not to be permitted to enjoy or pay the fruits of his contempt, the Court is entitled to give appropriate directions for remedying and rectifying things done in violation of its orders. It has also been held that if the offending conduct has caused loss or hardship, this Court will have jurisdiction to direct suitable compensation (monetary or otherwise in the contempt proceedings itself).

42. This principle has been accepted in **Delhi Development Authority v. Skipper Construction Company (P) Ltd.**⁸, as well as in several other decisions of the Supreme Court and other Courts. The Supreme Court in **Chiranji Lal and another v. Ajay Kumar Sood**⁹, awarded compensation of Rs.1 lakh to a tenant when he failed to re-construct premises and re-induct tenants in spite of a direction issued by the Supreme Court so that he can be purged out of the Contempt.

⁸ 1996 (4) SCC 622

⁹ (1997) 11 SCC 336

43. The Bombay High Court has also taken a similar view in **Nazamunnissa Shaukat Ali and another v. Municipal Corporation of Greater Bombay and others**¹⁰. In that case, the Court held as under :

“In view of the evidence which is before me, I hold that the 1st respondent Municipal Corporation has willfully disobeyed the order of this Court dated 8th November, 1988. the conduct of the 1st respondent is of such a nature that it substantially interferes with the due course of justice. The 1st respondents are, therefore, guilty of contempt of Court. By not complying with the order of the Court the respondents have attempted to render the order passed against them nugatory. This is, therefore, a fit case where the respondents should be first directed to comply with the orders passed against them. If, now, by reason of their own acts of commission and omission, they are not in a position to return the belongings in specie, this is a fit case where they can be directed to pay to the petitioners the money equivalent of the belongings which they have lost. In the circumstances the 1st respondents are directed to pay to the petitioners and others whom they represent a total sum of Rs.10,090 as per Annexure ‘A’ to this judgment and order in lieu of belongings which were taken away by the 1st respondents.”

44. This Court also in **T. Ramdas v. Collector and D.M.**¹¹ also took a similar view.

45. In the facts and circumstances of the case and in the interests of justice, the 2nd respondent is therefore directed to pay Rs.50,000/- out of his own pocket as compensation for the loss caused to the petitioner on account of violation of the order passed by this Court. This shall be in addition to any further amount which the petitioner is entitled to in law, and which the petitioner may claim in a competent Civil Court.

46. The 2nd respondent is sentenced to suffer two (02) months simple imprisonment with a fine of Rs.2,000/- payable to the petitioner within a

¹⁰ 1990 Cri. L. J. 619

¹¹ 1998 A.I.H.C. 553 (A.P.) (D.B.)

period of four (04) weeks. The petitioner shall deposit subsistence allowance of Rs.300/- per month within four (04) weeks from today. The sentence of imprisonment imposed on the 2nd respondent is suspended for a period of six (06) weeks from today. An entry shall be made in the Annual Confidential Report of the 2nd respondent by the 1st respondent of this contumacious conduct of the 2nd respondent.

47. The 2nd respondent shall also pay within four (04) weeks, a sum of Rs.50,000/- out of his own pocket as compensation for the loss caused to the petitioner on account of violation of the order passed by this Court, which shall be in addition to any further amount which the petitioner is entitled to in law, and which the petitioner may claim in a competent Court.

48. Since there is no material to show that 1st respondent willfully disobeyed the order of this Court, the Contempt Case is dismissed as against him.

49. Accordingly, the Contempt Case is partly allowed as above.

50. As a sequel, miscellaneous petitions, pending if any in this Contempt Case, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 03.04.2018

Ndr/*