

HON'BLE SRI JUSTICE S.V. BHATT

C.C.No.1915 OF 2017

ORDER:

Heard Mr. T.V.S.Prabhakar Rao for petitioner, the learned Government Pleaders for Land Acquisition and Irrigation for respondents 1 to 3 and respondent No. 4 respectively and also the learned Special Government Pleader for respondent No.5.

On 20.04.2018, this Court recorded a finding on the alleged civil contempt committed by respondents and further directed the Registry to implead Mr.Tej Bharat Namburi as respondent No.5. The 5th respondent has filed counter affidavit.

The contempt case is filed complaining disobedience of the interim orders dated 02.01.2017 in W.P.No.43715 of 2016. The operative portion of the order reads as follows:

Notice before admission.

Post after four weeks.

On 03.11.2016, after hearing the learned counsel appearing for parties writ petition No.2639 of 2014 was disposed of and the operative portion reads thus:

‘Admittedly, Award is not passed. The petitioners are also not pressing the challenge to notification under Section 4(1) of the Act. Further, the petitioners are prepared to receive compensation if awarded and paid under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30/2013). Government Pleader for Land Acquisition submits that since Award is not passed, the respondents are under obligation to pass an Award under Act 30/2013, pay compensation accordingly and take possession. The statement is placed on record.’

Surprisingly, contrary to the stand taken before the Court, the copy of Award dated 31.05.2015 determining the compensation payable under the old Act is served on the petitioners. Prima facie, the Award now served on the petitioners is not tenable and legal.

There shall be stay of all further proceedings pursuant to Award No.8 of 2015 dated 31.05.2015, until further orders”.

The Court finds it convenient to briefly advert to a few dates and events chronologically to appreciate the case of respective parties.

The petitioners filed W.P.No.2639 of 2014 challenging the notification dated 26.12.2013 published on 04.01.2013 issued under Section 4(1) of the Land Acquisition Act. Through the impugned notification, the respondents proposed to acquire the land of petitioners for modernization of Godavari Western Delta System and improvement of Yenamadurru drain from Kilometre 0.00 to 24.000. The parties, pending disposal of W.P.No.2639 of 2014, were directed to maintain *status quo* and on 03.11.2016, the writ petition was disposed of by this Court. The order dated 03.11.2016 is substantially an order passed with the consent of counsel appearing for the parties. The petitioners thereafter on 14.12.2016 filed W.P.No.43715 of 2016 for Mandamus declaring Award No.8/2015 dated 31.05.2015 as illegal and arbitrary. One of the objections against the Award dated 31.05.2015 is that the Award is made without notice of enquiry and compensation is fixed under the Land Acquisition Act at very low price, instead of determining the compensation under Act 30/2013. Therefore, according to petitioners, the Award is illegal and does not conform to the procedure prescribed by law for conducting enquiry in this behalf. The petitioners incidentally refer to the direction issued by this Court in W.P.No.2639 of 2014. On 14.12.2016, this Court directed interim stay of dispossession and

posted the writ petition to 02.01.2017. On 02.01.2017, the order has been extended and the same reads thus:

XXXXXXXXXX

XXXXXXXXXX

Surprisingly, contrary to the stand taken before the Court, the copy of Award dated 31.05.2015 determining the compensation payable under the old Act is served on the petitioners. Prima facie, the Award now served on the petitioners is not tenable and legal.

There shall be stay of all further proceedings pursuant to Award No.8 of 2015 dated 31.05.2015, until further orders”.

The petitioners filed the present contempt case alleging disobedience of the interim orders of this Court on the material allegations as follows:

“I submit that on 16.12.2016 this Hon’ble Court while ordering notice to the respondents was pleased to grant interim direction directing the respondents not to dispossess the petitioners from their respective property and on 2.1.2017 this Hon’ble Court was pleased to grant stay of all further proceedings pursuant to the award. I submit that the copy of the orders of this Hon’ble Court was placed before the respondents and requested to stop the work, but the respondents refused to do so and informed that it is a time bound work which is to be completed as early and issue if any will be considered later and proceeding with the work.

I submit that the respondents after receipt of the orders called us to withdraw the matter as the work is to be completed, but we refused to do so and questioned the high handed action of proceeding with the work. In spite of our best efforts, we could not be in a position to stop the work and the photographs filed herewith are self explanatory to show the progress of the work. I request this Hon’ble Court to read the affidavit filed in the writ petition as part of this affidavit.

I submit that by misleading this Hon'ble Court the earlier writ petition filed on various grounds got disposed of and acted contrary to their undertaking and by placing the alleged award passed in the year 2015, they are proceeding with the work. I submit that in spite of our repeated intimation and persuasion through the letters dt.24.12.2016 and 9.01.2017, no positive response from the respondents and we have no option except to bring to the notice of the Hon'ble Court for their deliberate negligence and non compliance of the orders of this Hon'ble Court".

Hence, the contempt case.

The 1st respondent-District Collector is the approving authority and the Land Acquisition Officer (S) are 2nd and 5th respondents. Keeping in view the consistent submissions of the learned counsel appearing for respondent Nos.4 and 5, the Court briefly refers to the stand taken by respondent No.5 which would be sufficient for the purpose of understanding the explanation or reply of all the respondents. According to respondent No.5, on 31.05.2015, Award was passed under Section 24 of Act 30/2013. Admittedly, the copy of the Award was not communicated or served on the petitioners herein. The Award refers to payment of compensation amount to the land owners and thereafter the possession of land will be taken by respondents. Presumably, neither paying compensation nor taking possession of subject matter could be undertaken in view of the interim order granted by this Court in W.P.No.2639 of 2014.

On 16.11.2016, respondent No.5 issued notice of passing Award dated 31.05.2015. The 5th respondent places on record the delivery of notice by hand and also communication of notices by registered post acknowledgement due. According to

5th respondent, as the petitioners/land owners have not come forward to receive the compensation, the 5th respondent directed respondent No.3 to take possession of the land of petitioners and hand over the same to Irrigation Department. Panchanama dated 30.11.2016 and delivery of possession to Irrigation Department are filed as annexures to the counter affidavit. According to respondents, the respondents firstly have substantially complied with the direction of this Court in W.P.No.2639 of 2014 and they have taken possession of subject land much prior to the interim direction granted by this Court on 14.12.2016. The reply of respondent No.5 on these aspects of the matter is contextual. Hence, the reply is excerpted:

“As per the communication gap in the appraisal of facts, the Hon'ble High Court has given orders on 03.11.2016 clearly mentioning that Award is not passed, in the fact was already passed prior to issue of orders by Hon'ble High Court in W.P.No.2639/2014 dated 3.11.2016 and the same fact was also mentioned in the expedite petition regarding the passing of Award. I came to know that explaining all the facts a revision petition as also filed in I.A.No.01 of 2018 in W.P.No.2639 of 2014 for the review of the order of this Hon'ble Court dated 03.11.2016. The Farmers/Land Owners/Petitioners were under impression that Award is not passed till 03.11.2016 and they were naturally waiting for fresh Award enquiry notices. Ironically, the copy of the Award passed on 30.05.2015 recalculated with interest amount from 16.05.2015 to 15.11.2016 were given to farmers/land owners in the form of statutory notices u/s 12(2) as per new act 37(2). The 12(2) as per new act 37(2) notices were issued by me on 16.11.2016 through e-office Roc.No.1664/2011 (DT) as Award Notice.

The land owners were under impression that the land rates will be calculated as per the basic values of land registration as on date 03.11.2016. However, as per the

LA Act 2013, the basic values of the land shall be taken as per date of Notification and not as per the date of Award/Award enquiry. So, the land compensation will be the same whether the Award is passed on 30.05.2015 or it is passed after 03.11.2016 as the date of notification will be the same. Only difference will be interest @ 12% per annum. Care is taken while issuing 12(2) notices on 16.11.2016, that the missing interest amounts were calculated and added to the individual land owners statement as per their extents. However, the land owners were not happy and they are expecting about 50 lakh per acre which will be the general market value and not basic value. I humbly submit that, I am sensitive to the land owners concern and have taken all necessary steps to satisfy them duly obliging to Hon'ble High Court orders and the statutory provisions given under LA Act, 2013. If the land owner have not forward to receive the compensation the awarded amount will be deposited before the competent authority U/s.77(2) of the Act 30 of 2013 but the authority constituted vide G.O.Ms.No.91 dated 03.03.2017 and functioning of authority started only after October 2017.

It is humbly submitted that, as I have gone through the order of Hon'ble High Court in W.P.No.43715/2016 dated 02.01.2017, after receiving the notice on 23.05.2018 – it is observed that the petitioners were under impression that the Award is passed as per the rates of old Land Acquisition Act 1894 which is not true. I humbly submit that the Award is passed as per the New LA Act 2013 only.

I humbly submit that, the possession is handed over to Irrigation Department on 30.11.2016 by Tahsildar, Tadepalligudem. As ascertained from technical wing of Irrigation Department, for digging of a canal in the extent of Ac.19-00 Cts acres, it will only take 10-15 days for completion of the channel. This implies that by the time W.P.No.43715/2016 is filed, the digging of land under possession is completed by the Irrigation Department on 15.12.2016. The necessary records showing the documentary evidence on completion of work in Arulla village obtained from the Irrigation Department i.e., copy of Measurement Book, Copy of Placement Register is herewith submitted for kind perusal”.

Mr.Prabhakara Rao contends that the respondents herein have jointly or severally committed breach of orders of this Court in W.P.No.2639 of 2014 and also the interim orders dated 14.12.2016 and 02.01.2017 in W.P.No.43715 of 2016. According to him, this Court while disposing of W.P.No.2639 of 2014 directed the respondents to pass Award, communicate the Award to respondents, pay compensation and then take possession of the land under acquisition. In the case on hand, the respondents have communicated the Award passed on 31.05.2015 and no enquiry was conducted, much less paid compensation, but still possession of land is claimed by respondents. According to him, these acts either put together or taken independently constitute disobedience of the orders amounting to civil contempt and the circumstances satisfy the ingredients of willful disobedience of the orders of the Court as well. Hence, he prays for punishing the contemnors under Sections 10 to 12 of the Contempt of Courts Act.

The learned Government Pleader for Land Acquisition contends that on 03.11.2016 when the writ petition was disposed of, it could not be brought to the notice of this Court that Award was passed on 31.05.2015 under Act 30/2013. Therefore, what remains to be completed was communication of Award in accordance with law, tender compensation and thereafter take possession. Hence, the serving of Award dated 31.05.2015 cannot and could not by itself be treated as an act of disobedience by respondents. He tries to persuade the Court by contending that the 5th respondent was the Land Acquisition Officer at the relevant point of time and after noticing the order on internet, the

5th respondent has taken steps firstly by issuing notice dated 16.11.2016 to all the land owners to appear before him for receiving the compensation amount. A few of the petitioners have received the notice but did not turn up. Since notices on all the petitioners could not be served, the 5th respondent sent the notices by registered post with acknowledgement due on 25.11.2016. The notices were received on 28.11.2016. Since the petitioners are not coming forward to receive compensation, in spite of receiving the acknowledgement, keeping in view the urgency in execution of the subject project, on 30.11.2016, the 5th respondent directed the 3rd respondent to take possession of subject land. Therefore, firstly according to him, the 5th respondent has substantially complied with the directions issued by this Court and secondly the petitioners did not cooperate with the 5th respondent. Under those circumstances, the possession was taken on 30.11.2016 and no exception can be taken to subsequent digging of channel, change of physical features etc. According to him, respondent Nos.2 and 5 have substantially complied with the direction and there is no willful disobedience and, on the other hand, the petitioners have suppressed the facts or efforts taken by Land Acquisition Officer for service of notice etc. Therefore, even if this Court proceeds to consider by referring to the findings already recorded on 20.04.2018, according to him, the record discloses that the respondents have not willfully and deliberately disobeyed the orders of this Court. Therefore, he prays for accepting the explanation given in the counter affidavit and also unconditional apology tendered by respondent Nos.2 and 5.

The learned Special Government Pleader contends that the affidavit in contempt case does not satisfy the requirements of Rule 7 of the Contempt of Courts (Andhra Pradesh High Court) Rules, 1980 and, therefore, on that ground alone, the contempt case is liable to be dismissed. He relies on the decision of this Court reported in *SHRIRAMSETTY SAIDULU v. DANTALA PRAVEEN*¹. For convenience, the Court refers to the paragraphs on which the learned Special Government Pleader relied on and the same reads thus:

“Therefore, while making the application for contempt in this Court, there must be a prima facie allegation of willful disobedience to order of the Court in this case. Moreover, the Rules framed by this Court provides for requirements to plead in the petition for charging a person of commission of contempt. Rule 7 of the Contempt of Courts (Andhra Pradesh High Court) Rules, 1980 is as follows:

“7. (1) Every petition under rule 5 (b) and (c) shall contain:

(a) the name, description and place of residence of the petitioner or petitioners and of the person charged;

(b) the nature and details of the contempt alleged, and such material facts, including the date or dates of commission of the alleged contempt, as may be necessary for the proper determination of the case;

(c) the details of the petition previously made by the petitioner on the same facts, if any, and the result thereof.

(2) Where the petitioner relies upon a document or documents in his possession or power and refers to them in the petition in support thereof, he shall file such document or documents or true copies thereof duly authenticated along with the petition.

(3) No Court-fee shall be payable on the petition or on any document filed in the contempt proceedings.

Therefore, the procedure established by law, as it could be culled out from the aforesaid legal provision, in the contempt

¹ 2014 (4) ALD 200

application, there must be a clear prima facie case of willful, deliberate violation of the order with particulars as to the date, nature and details of the contempt so that the person, who is charged with the commission of the contempt, should understand for which he is sought to be proceeded with by the Court. {See B.K.Kar V. Hon'ble the Chief Justice and his companion Justices of the Orissa High Court and another (A.I.R. 1961 S.C. 1367)}. We have examined this case.

xxxxx

We are unable to accept the aforesaid contention. We think that if the law requires a thing to be done in one manner, it shall be done in that manner alone and not at all {See Nazir Ahmad Vs. King- Emperor (AIR 1936 Privy Council 253 (2)); Taylor Vs. Taylor (1876) 1 Ch D 426)}. The Hon'ble Supreme Court in similar set of facts in the case of Niaz Mohamad Vs. State of Haryana [(1994) 6 SCC 332], held that it cannot be said that there was contempt. Therefore, in the contempt petition, there should have been a clear charge with a commission of the contempt, namely, willful and deliberate violation of the order together with relevant particulars.

xxxxx

No petition for contempt should be taken against any person unless the person knows what is the charge against him.

xxxxx

In this case, there is no prima facie disclosure of commission of contempt. Only, it appears simple disobedience. The element of willful or deliberate violation is a pre-condition to charge a person with contempt.

.....The Court must be satisfied that there is disobedience and the same is willful. When the fact-finding of essential element is missing in the order of the learned single Judge, we think that the judgment and sentence against the appellant cannot be sustained at all nor we can support the conclusion that the appellant is guilty for contempt of Court.

As we have said that unless there is a prima facie disclosure of commission of contempt with clear facts as required under law, no Court has jurisdiction to entertain the contempt petition. In that sense, the order has been passed

without having a jurisdictional fact. This contempt application, therefore, should have been dismissed.....

We feel that the reason for passing of the order is that a law breaker cannot be allowed to reap his illegal act just because he is escaped from rigour of the Contempt proceedings. The order of injunction was to restrain a particular person from alienating the property in favour of third parties. Thus, he was legally incompetent to do so. To clarify it, at the time of execution of deed of conveyances, the appellant was incompetent under law to convey the property, meaning thereby he had no disposable interest in the property at that time. Accordingly, all these conveyances are null and void. Of course, we are not unmindful of the alleged right of the vendees, but Court's order cannot be ignored, irrespective of anything. Accordingly, we cancel all the instruments executed, admittedly, in violation of the order of injunction passed by the learned single Judge."

Therefore, he prays for accepting the explanation given by the respondents and according to him, it is not a case for punishing the respondents under Sections 10 to 12 of the Contempt of Courts Act.

I have perused the record and noted the submissions of the learned counsel appearing for the parties.

Now, the point for consideration is whether the respondents have committed disobedience of the order dated 02.01.2017 and if so, whether the disobedience of the order is willful and deliberate to attract the definition of civil contempt for proceeding under Sections 10 to 12 of the Contempt of Courts Act.

Let me at the outset consider the objection raised by respondents that the contempt case does not satisfy the requirements of Rule 7 of the Contempt of Courts (Andhra Pradesh High Court) Rules, 1980. According to the Special Government

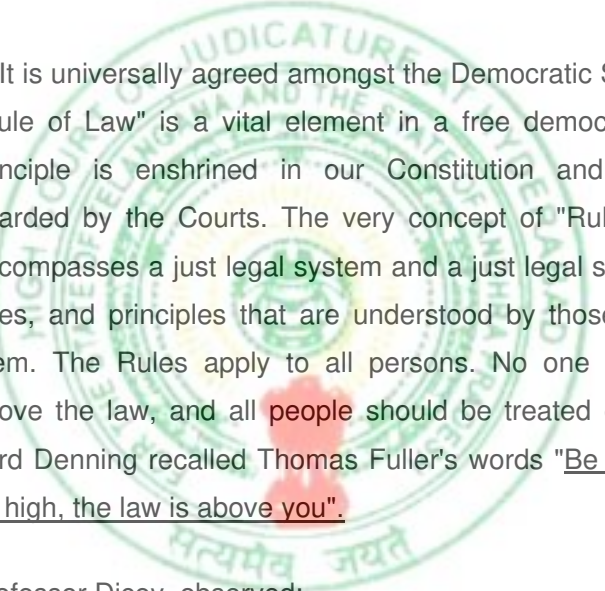
Pleader, the affidavit filed by petitioners firstly is bereft of reasons and secondly a few of the developments which have taken place from 03.11.2016 till 30.11.2016 are not deliberately adverted to by petitioners. The Special Government Pleader vehemently contends that even assuming that this Court vide its order dated 20.04.2018 recorded a tentative finding that there is *prima facie* material for holding the respondents guilty of contempt, this Court ought not to exercise its jurisdiction further to punish the respondents under Sections 10 to 12 of the Contempt of Courts Act for alleged disobedience of the interim order of the Court, for such procedure would amount to punishing the respondents without the petitioners complying Rule 7 of the Contempt of Courts (Andhra Pradesh High Court) Rules, 1980. He further contends that this Court exercises quasi criminal jurisdiction under the Contempt of Courts Act and the petitioners are required to plead and prove all the ingredients, particularly in a case where the disobedience alleged is civil contempt.

I have taken note of Rule 7 of the Contempt of Courts (Andhra Pradesh High Court) Rules, 1980 and also the ratio of this Court in *Shriramsetty Saidulu's case* (1 supra). The affidavit filed by the petitioners is already excerpted and I do not propose to reiterate the averments made by petitioners once again. It is sufficient to hold that the petitioners have not relieved themselves of the requirement fastened by Rule 7 on the petitioners in the manner required by the Rule. This Court, after examining the record and requirement of law, has no option except to hold that the

affidavit does not disclose basic details which were within the knowledge of petitioners.

At this stage, the Court prefers to refer to a few of the leading cases on the scope and jurisdiction of this Court under Article 215 of the Constitution of India and the Contempt of Courts Act, 1971 and the ingredients required for punishing a respondent for alleged civil contempt before adverting to the facts of the case.

In CHILLAPALLI RAVI V. B.KRUPANANDAM², this Court held as follows:



1. It is universally agreed amongst the Democratic States that "Rule of Law" is a vital element in a free democracy. This principle is enshrined in our Constitution and jealously guarded by the Courts. The very concept of "Rule of Law" encompasses a just legal system and a just legal system has rules, and principles that are understood by those applying them. The Rules apply to all persons. No one should be above the law, and all people should be treated equally as Lord Denning recalled Thomas Fuller's words "Be you never so high, the law is above you".

Professor Dicey, observed:

"When we speak of the "rule of law" as a characteristic of our country, not only that with us no man is above the law but that every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals. In England the idea of legal equality, or the universal subjection of all classes to one law administered by the ordinary courts, has been pushed to its utmost limit. With us every official, from Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done with legal justification as any other citizen. The reports abound with cases in which officials have been brought before the courts, and made, in their personal capacity, liable to punishment, or to the payment of

² 2005 (1) ALT 249 (D.B.)

damages, for acts done in their official character but in excess of their lawful authority. A colonial governor, a secretary of State, a military officer, and all subordinates, though carrying out the commands of their official superiors, are as responsible for any act which the law does not authorize as is a private and unofficial person."

2. Yet another occasion had arisen requiring this Court to discharge its duty of reminding the civil servants in the State of Andhra Pradesh that they too are bound by the dictum "be you never so high, the law is above you".

3. Lord Diplock in *Attorney-General v. Times Newspapers Limited* observed:

"..... The provision of such a system for the administration of justice by courts of law and the maintenance of public confidence in it, are essential if citizens are to live together in peaceful association with one another, "contempt of court" is a generic term descriptive of conduct in relation to particular proceedings in a court of law which tends to undermine that system or to inhibit citizens from availing themselves of it for the settlement of their disputes, contempt of court may thus take many forms..... there is an element of public policy in punishing civil contempt, since the administration of justice would be undermined if the order of any court of law could be disregarded with impunity:....."

XXXX

5. Contempt of court have traditionally been classified as being either criminal or civil but has never been rigidly maintained. The proceedings for civil contempt are sometimes described as "quasi- criminal" because of the penal consequences that can attend the breach of an order. In both civil and criminal contempt proceedings, it is the considerations of public policy that underlying the contempt jurisdiction viz., the protection of the administration of justice and the maintenance of the Court's authority. Although "civil contempt" is concerned with breaches of Court orders or undertakings in civil litigation, for the benefit of the parties, the public interest equally plays an important role.

6. In *Jennison v. Bakar Salmon L.J.*, made an important point that:

“.....the public at large no less than the individual litigant have an interest and a very real interest in justice being effectively administered.”

7. It is very well settled that mere disobedience of an order made in a proceeding may not be sufficient to amount to a "civil contempt" within the meaning of [Section 2\(b\)](#) of Contempt of Courts Act, 1971 (for short 'the Act'). The element of willingness is an indispensable requirement to bring home the accusation of contempt within the meaning of the Act.

In B.KRISHNA REDDY V. SMT.PUSHPA SUBRAHMANYAM³, this Court held as under:

“.....The court has the duty of protecting the interest of the public in the due administration of justice and, as such, is entrusted with the power to commit for contempt of court, not in order to protect its dignity against insult or injury as the expression 'contempt of court' may seem to suggest, but to protect and vindicate the right of the public that the administration of justice shall not be prevented, prejudiced, obstructed or interfered with. If orders of the Court are disobeyed with impunity by those who owe an obligation to society to preserve the rule of law, not only would individual litigants suffer, the whole administration of justice would be brought into disrepute. (Advocate General, State of Bihar v. M.P. Khair Industries (1980) 3 SCC 311; Bijay Kumar Mahanty v. Jadu (2003) 1 SCC 644. Every one, howsoever high he may be, is bound to implement orders of Court. Those who disregard Court's orders do so at their own peril for no one is above the law. (Court on its own motion v. N.S. Kanwar (1995) 3 Criminal Law Journal 1261 (Punjab & Haryana HC)

2. Disobedience of an order of Court, whether prohibitive or mandatory, whether made ex-parte or upon hearing both parties, or interim or perpetual, amounts to contempt, if it is calculated or tends to interfere with the administration of justice, or brings it into disrespect or

³ 2011 (6) ALT 73 (D.B.)

disregard, (*Jagarmudi Chandramouli v. K. Appa Rao* 1967 (1) An.W.R. 129, for it strikes at the very root of the rule of law on which our system of governance is based. Right or wrong, the order has to be obeyed. Flouting an order of the Court would render the party liable for contempt. (*Director of Education, Uttaranchal v. Ved Prakash Joshi* (2005) 6 SCC 98, *Union of India v. Subedar Devassy PV* (2006) 1 SCC 613, *Prithawi Nath Ram v. State of Jharkhand* (2004) 7 SCC 261. Power to punish for contempt is necessary for the maintenance of an effective legal system. It is exercised to prevent perversion of the course of justice. (*Kapildeo Prasad Sah v. State of Bihar* (1999) 7 SCC 569. Once a direction is issued by a competent Court, it has to be obeyed and implemented without reservation. The only remedy available to a party, who suffers an order, is to challenge it in accordance with law. The order cannot be rendered ineffective by not complying with the directions on specious pleas as it would seriously affect and impair administration of justice. (*Karnataka Housing Board v. C. Muddaiah* (2007) 6 SCJ 938; *Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai* 2008 (8)SCJ 603.

3. "Contempt of Court" is an unfortunate and misleading phrase. It suggests that it exists to protect the dignity of the judges. Nothing could be farther from the truth. The power exists to ensure that justice shall be done. The public at large, no less the individual litigant, have an interest, and a very real interest, in justice being effectively administered. Unless it is so administered the rights, and indeed the liberty, of the individual shall perish. (*Jennison v. Baker* (1972) 1 All.ER.997). The Contempt of Courts Act secures confidence of the people in the administration of justice. If an order passed by a competent court is clear and unambiguous, disobedience or breach of such order would amount to contempt of court. There can be no laxity, as otherwise court orders would be the subject of mockery. (*Anil Ratan Sarkar v. Hirak Ghosh* (2002) 4 SCC 21.; *Patel Rajnikant Dhulabhai* (supra).

4. The following conditions must be satisfied before a person can be held to have committed civil contempt: (i) there must be a judgment, decree, direction, order, writ or other process of a court (or an undertaking given to a court); (ii) there must be disobedience to such judgment,

decree, direction, order, writ or other process of a court (or breach of undertaking given to a court); and (iii) such disobedience of judgment, decree, direction, order, writ or other process of a court (or breach of undertaking) must be wilful. (Patel Rajnikant Dhulabhai (supra). Civil contempt arises where the power of the Court is invoked and exercised to enforce obedience to orders of the court. (Delhi Development Authority v. Skipper Construction(1995) 3 SCC 507).

In **JIWANI KUMARI PAREKH V. SATYABRATA CHAKRAVORTY**⁴, the Apex Court held as under:

In our opinion, before a party can be committed for contempt, there must be a wilful or deliberate disobedience of the orders of the Court. In the present case, we do not find that any such wilful or deliberate or reckless disobedience of our order dated January. 16, 1990, has been committed by the respondent to the contempt petition. Hence, the contempt petition is dismissed.

K.S.VILLASA V. LADIES CORNER AND ANOTHER
(1999) 9 SCC 79

Having gone through the evidence and the judgment of the High Court, we are of the opinion that the findings recorded by the High Court are fully justified and that the appellant had intentionally and knowingly flouted the order of the Court and had thereby interfered with the course of justice. He has been rightly convicted under the [Contempt of Courts Act](#). This appeal is, therefore, dismissed.

INDIAN AIRPORTS EMPLOYEES' UNION V. RANJAN CHATTERJEE (1999) 2 SCC 537

It is well settled that disobedience of orders of Court, in order to amount to 'Civil Contempt' under [Section 2\(b\)](#) of the Contempt of Courts' Act, 1971 must be 'wilful' and proof of mere disobedience is not sufficient. [[S.S.Roy vs. State of Orissa & Others](#)]. Where there is no deliberate flouting of the

⁴ (1990) 4 SCC 737

orders of the Court but a mere misinterpretation of the executive instructions, it would not be a case of Civil Contempt [Ashok Kumar Singh v.. State of Bihar).”

The jurisdiction of this Court both under Article 215 of the Constitution of India and also under the Contempt of Courts Act is well defined and interpreted. The definitions of ‘contempt of court’ and ‘civil contempt’ read thus:

‘contempt of court” means civil contempt or criminal contempt’

‘civil contempt’ means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

In the background of the statutory scheme and the binding precedents, the Court proposes to consider the reply of respondents 2, 3 and 5 vis-à-vis the alleged disobedience of orders. The 5th respondent worked as Revenue Divisional Officer up to 26.01.2017. The 5th respondent avers that the 5th respondent has taken note of the order of this Court from the web portal and thereafter issued notice dated 16.11.2016 to petitioners herein to come and receive the compensation for the land acquired through Award dated 31.05.2015. A few of the petitioners have received the notices and a few others have not. The 5th respondent to ensure service of notice on all the owners/petitioners, thereafter on 25.11.2016 sent the notices by registered post with acknowledgment due. The acknowledgements are received by the petitioners on 28.11.2016. The petitioners since did not respond to any of the notices, the 5th respondent under panchanamas

dated 30.11.2016 claims to have taken possession of land acquired and delivered possession to Irrigation Department.

Now, let me note the direction issued by this Court in W.P.No.2639 of 2014. This Court allowed the Land Acquisition Officer to pass award under Section 24 of Act 30/2013, pay compensation and take possession of land under acquisition. The Award dated 31.05.2015, though was made, is not communicated. The Award is passed under Act 30/2013. The 5th respondent from 16.11.2016 up to 28.11.2016 has taken steps to get the notices served on the petitioners. The petitioners filed writ petition complaining that Award is passed without enquiry. The petitioners have not adverted to the notices sent by 5th respondent between 16.11.2016 and 28.11.2016. The petitioners have merely averred that the orders of this Court are disobeyed. The meaning of 'willfully' and 'deliberately' has been considered by the Apex Court in the decisions stated above.

In the above background, let me now examine the next aspect of the matter viz., whether there is disobedience of the order of this Court dated 14.12.2016 or 02.01.2017. The conclusion to the above aspect depends on consideration of the reply of respondent No.5 on the events that have happened between 03.11.2016 and 30.11.2016. It is not a case where the 5th respondent without even issuing notice has claimed possession of land under acquisition. The deviation in procedural aspects in passing the Award, if any, is under challenge in W.P.No.43715 of 2016. These are considered in W.P.No.43715 of 2016. Therefore, the reply given

by respondent Nos.2 and 5 is considered for the limited purpose whether the respondents firstly have disobeyed the orders and secondly the civil disobedience complained amounts to wilful and deliberate disobedience. The 5th respondent, it is to be held that, has certainly taken steps to go forward pursuant to order dated 03.11.2016 in W.P.No.2639 of 2014 and the petitioners, for reasons known to them, did not avail any of the opportunities provided by 5th respondent. The 5th respondent since has taken a few steps, though this Court need not once again record a finding that there is disobedience of the order of this Court in W.P.No.2639 of 2014, but on the test whether the disobedience satisfies wilful and deliberate disobedience, this Court after perusing the record and taking note of the series of steps taken by 5th respondent records a finding that there is no wilful or deliberate disobedience or taken steps to flout the orders of the Court. Once the possession claimed by respondents on 30.11.2016 for the limited purpose of appreciating whether there is wilful disobedience of the Court order is accepted, the interim orders of this Court are not to dispossess the petitioners from their respective properties and operative from 14.12.2016.

Therefore, the contempt case is dismissed. Notices issued in Form-I are discharged. The findings recorded in the contempt case are for the limited purpose of examining the issue under the Contempt of Courts Act.

S.V.BHATT, J

13th July, 2018
Lrk m