

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI

Letters Patent Appeal No.9 of 2017

JUDGMENT: {Per Hon'ble Sri Justice Ramesh Ranganathan }

This appeal, under Clause 15 of the Letters Patent, is preferred against the orders passed by the Learned Single Judge in C.C.No.2270 of 2014 dated 29.10.2015, 07.11.2016, 23.06.2017 and 08.09.2017. C.C.No.2270 of 2014 was filed alleging wilful and deliberate violation of the order passed in W.P.No.877 of 2014 dated 01.09.2014 whereby the Learned Single Judge had restrained the respondent therein from interfering with the writ petitioner's enjoyment of the subject land in Survey Nos.91 and 92 of Laxmipuram Village, Warangal Mandal and District.

The Learned Single Judge, in his order in C.C.No.2270 of 2014 dated 29.10.2015, observed:

“In this view of the matter, the Assistant Director of Survey and Land Records, Hyderabad is directed to cause survey of the land claimed by the petitioner as well as the land claimed by the respondents after giving notice to both sides, so that the land claimed by each party can be demarcated on the ground and that disputes about alleged encroachment by either party against the other can be avoided.

The Assistant Director of Survey and Land Records, Hyderabad shall complete this exercise within a period of eight (08) weeks from the date of receipt of a copy of this order. The expenses of this survey shall be borne by both parties equally. Both parties shall submit their work memos and documents relied upon by them. The Assistant is also entitled to consider the revenue records for the above purpose, whether they are filed by the parties otherwise obtained by him.”

Thereafter, in his order dated 07.11.2016, the Learned Single Judge held:-

“Since the intention of the Court was that the dispute between the parties should be decided after a

survey is conducted by the Competent Authority and since it is now brought to my notice that the Regional Joint Director, Survey and Land Records, Hyderabad is competent to cause such a survey, the order dt. 29.10.2015 is modified and the Regional Joint Director, Survey and Land Records, Hyderabad is directed to depute a responsible official of his office to conduct the survey as directed in the order dt.29.10.2015 passed by this Court in this Contempt Case.”

Subsequently, in his order dated 23.06.2017, the Learned Single Judge opined:-

“Since the survey allegedly conducted on 17-04-2017 does not appear to be correct having regard to the fact that the land claimed by petitioner is not demarcated therein specifically, the Assistant Director, Survey and Land Records, Khammam as well as Assistant Director, Survey and Land records, Outer Ring Road, HMDA, Hyderabad shall re-do the exercise taking into account the sale deeds produced by petitioner. In respect of the land claimed by him and identify the land claimed by petitioner by excluding Ac.0.27 gts. In Sy.No.92 of Laxmipur village, which originally belonged to Kakatiya Urban Development authority, which has been subsequently sold by it to the third parties.

This exercise shall be done within four (04) weeks from the date of receipt of a copy of this order.”

Again, in his order dated 08.09.2017, the Learned Single Judge observed:

“The order dt.23.06.2017 is clarified to the effect that the petitioner need not produce sale deeds, since the basis of the claim of the petitioner is that the property is inherited property.

However, the Kakatiya Urban Development Authority shall produce evidence of its title in respect of any title claimed by it in survey Nos.91 and 92 before the Survey Authorities and the latter shall re-do the exercise and identify the land claimed by the petitioner by excluding Ac.0-27 guntas in survey No.92 of Laxmipur village which originally belong to Kakaitya Urban Development Authority and which has been sold by it subsequently to third parties. This exercise shall be completed within two (02) weeks from the date of receipt of a copy of this order.

It is made clear that the officials of the Kakatiya Urban Development Authority shall not in any way obstruct conduct of survey by the Survey Officials of the Revenue Department and any such obstruction will be treated as Contempt of this Court.”

Sri G.Vidya Sagar, learned Senior Counsel appearing on behalf of the appellant, would submit that, since an appeal would lie under Section 19 of the Contempt of Courts Act (for short “the Act”) only against exercise of jurisdiction by the Learned Single Judge to punish for contempt, and the aforesaid directions issued by the Learned Single Judge would not fall within the ambit of Section 19(1) of the Act, the only remedy which the appellant has is to invoke the jurisdiction of this Court under Clause 15 of the Letters Patent. Reliance is placed by the Learned Counsel for the appellant on the judgment of the Supreme Court in **Midnapore Peoples’ Coop. Bank Ltd. vs. Chunilal Nanda**¹.

In proceedings under the Act, the jurisdiction which this Court exercises is extremely limited. The enquiry in such proceedings is confined to whether the order, violation of which is alleged, has in fact been violated; whether such violation is wilful and deliberate; and, if so, the nature of punishment to be imposed for such wilful and deliberate violation of the order of the Court.

In proceedings under the Contempt of Courts Act, this Court would not issue any directions including those afore-extracted. Since the Contempt Case is still pending consideration before the Learned Single Judge, suffice it, if the order under appeal is set aside, as such orders could not have been passed by the Learned Single Judge in the exercise of his jurisdiction under the Act.

The Letters Patent Appeal is allowed to the extent indicated hereinabove.

¹ (2006) 5 SCC 399

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, J)

(N.BALAYOGI, J)

06th August, 2018
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Date: 06.08.2018

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