

HON'BLE SRI JUSTICE S.V.BHATT

C.C.No.2365 OF 2017

ORDER:

Heard Mr.C.Ramachandra Raju for petitioner and the Assistant Government Pleader for respondent.

The contempt case is filed complaining disobedience of order dated 29.06.2017 in W.P.No.41438 of 2016 and to punish the respondents under Sections 10 to 12 of the Contempt of Courts Act.

On 29.06.2017, W.P.No.41438 of 2016 was ordered and the operative portion of the order reads thus:

“.....I am satisfied that the proceeding impugned in the writ petition can be set aside and is accordingly set aside. Respondents 3 and 4 if are of the view that the case warrants consideration by 2nd respondent under Section 9 of the Act can forward the material on which they are pointing out illegality, impropriety etc., to 2nd respondent for consideration under Section 9 of the Act. This Court is also of the view that the jurisdiction of revision can be entertained by a person aggrieved by an entry in the record of rights. Hence, the unofficial respondents, if so advised, are also given liberty to avail the remedy under Section 9 of the Act. Having passed the above order, keeping in view the circumstances on which both the sides have argued with vehemence and after taking note of the stage at which disputes have arisen between the parties, in exercise of the discretion and jurisdiction of this Court under Article 226 of the Constitution of India, this Court directs that the entries in 1-B register or the Pass Books are not to be utilized by any person till the revision is heard and disposed of by respondent No.2. The 2nd respondent endeavours to dispose of the revision within four months from today”.

The petitioner filed W.A.No.963 of 2017 aggrieved by the order dated 29.06.2017, and on 24.07.2017 the writ appeal was disposed of. The order of the Division Bench reads thus:

“The direction to the parties not to utilise the entries in the revenue records, in our view suffers from a patent error necessitating its being set aside in proceedings under Clause 15 of the letters patent. The order of the learned Single Judge to the limited extent he directed the parties not to utilize the entries in the revenue record till the revision was disposed of by the 2nd respondent is set aside. We make it clear that we have not interfered with any other part of the order of the learned Single Judge”.

The petitioner after adverting to the disposal of writ appeal by the Division Bench, on the alleged disobedience by the respondent alleges as follows:

According to petitioner, the respondent can entertain revision petition, if revision is filed by any one of the unofficial respondents in the writ petition. In the case on hand, it is alleged that the respondent himself issued a notice to 7th respondent in the writ petition directing her to file revision petition against the petitioner. As per the direction of the respondent herein, the 7th respondent in the writ petition filed revision petition against the petitioner. The filing of revision by 7th respondent in the writ petition pursuant to the notice said to have been issued by the respondent is manifest in the revision petition filed by the 7th respondent in the writ petition. It is stated that respondent has no power to issue direction to 7th respondent in the writ petition to file revision against the petitioner herein. The direction issued by respondent calling upon 7th respondent in the writ petition to file revision is in gross

violation of the order dated 29.06.2017 in W.P.No.41438 of 2016. The respondent herein cannot under any circumstances direct filing revision against petitioner. Therefore, the respondent committed disobedience of the order of this Court.

The petitioner further alleges that on 28.10.2017, legal notice was sent by registered post acknowledgement due and also by E-mail informing the respondent herein that directing 7th respondent in the writ petition to file revision amounts to disobedience of the Court order and further called upon the respondent herein to withdraw the notice dated 09.10.2017 issued in the revision filed by 7th respondent in the writ petition. The petitioner alleges that the respondent has audacity to proceed further with the so called revision petition and issued notice dated 10.11.2017 calling upon the petitioner to appear before the respondent. The petitioner alleges to have sent legal notice dated 10.11.2017 by registered post and the notice was received on 13.11.2017. On 09.11.2017, the petitioner was represented by his counsel, who informed the respondent the objection taken in notice dated 28.10.2017. The petitioner makes a few allegations on the respondent. This Court does not refer to those allegations as they are completely besides the point and also intemperate.

On 09.02.2018, the Court ordered notice to respondent and the respondent filed counter affidavit. It is stated that on 25.08.2017, the 7th respondent in the writ petition (Smt.Mangina Venkata Subba Lakshmi, w/o M.S.Rao) filed revision before the respondent stating that she got two third share in Sy.Nos.416/2B2A

and 416/2B 2B measuring Ac.15-53 Cts under registered Will dated 15.01.1985 executed by late Kanchumarthi Pardha Saradhi. By the time of execution of Will, the land issue was pending before LRAT, Kakinada. She further alleged that the petitioner herein created a fake Will and grabbed their property. According to respondent, the revision was taken on file on 22.09.2017 and notices for appearance were ordered. On 11.10.2017, the petitioner sent a notice informing the respondent that the petitioner received notice after the date of adjournment and requested for copies of revision petition. The request was complied with and executed. The revision underwent adjournments on 21.10.2017, 09.11.2017, 16.11.2017, 25.11.2017, 16.12.2017, 30.12.2017, 06.01.2018 and 20.01.2018. The petitioner did not participate in the enquiry before the respondent. The respondent after perusing the stand taken by respondents 5, 6 and 8 in the writ petition and also the report of Forensic Science Laboratory disposed of the revision filed by 7th respondent in the writ petition vide order dated 12.02.2018 holding that the pattadar passbook and title deeds standing in the name of petitioner as null and void, cancelled pattadar passbook and title deeds with immediate effect and further directed the Tahsildar to incorporate changes immediately. The Sub-Collector, Rajamahendravaram was directed to conduct enquiry into the alleged collusion by the officers of the revenue department in bringing into existence the fabricated documents. The respondent after giving various steps taken pursuant to the disposal of the writ petition by this Court on the allegation that the respondent directed

7th respondent in the writ petition to file revision petition replies as follows:

“It is submitted that the contention of the petitioner herein that this respondent issued a notice to the 7th respondent in the writ petition directing her to file Revision Petition against the petitioner and as per the directions of this respondent, the 7th respondent filed revision against him is absolutely false and hereby denied. This respondent never directed the 7th respondent in the writ petition to file revision petition. She herself filed the revision petition before this respondent on 25.08.2017. It is also not true to say that this respondent behaved in a most arrogant manner uttering unparliamentary language and does not care the orders of this Hon'ble Court and thrown away the orders of this Hon'ble Court and that this respondent has no respect for rule of law and acting according to my whims and fancies. It is also not correct that this respondent hand in glove with the revision petitioner, passed adverse orders against the petitioner to do undue favour of the said revision petitioner. The averments contra are untrue. The contentions contra are untenable.”

The respondent prays for dismissing the contempt case.

Mr.Ramachandra Raju, by referring to revision petition dated 25.08.2017, contends that the 7th respondent in the writ petition was directed by the respondent herein and issuing such direction amounts to disobedience of the order dated 29.06.2017 in W.P.No.41438 of 2016. According to him, by calling upon one of the parties to the writ petition to file a revision, the respondent has committed contempt of the order of this Court and respondents' enthusiasm to take up revision against the petitioner adds to the contempt alleged by petitioner. According to him, the respondent, when received notices from petitioner, should have either replied to the notices or refrained from proceeding with the revision pending

before respondent. The respondent by not doing either had aggravated the contempt and to refer to Mr.Ramachandra Raju's contention as it is, the respondent should be punished and jailed as any other view would result in failure of rule of law and encourages leniency in the bureaucracy towards Courts. Mr.Raju since insisted for recording his contentions, these aspects are adverted to and also decided by this Court.

The Assistant Government Pleader submits that the notice to which reference is made by the petitioner was issued showing the petitioner as revision petitioner and through legal notice, the petitioner brought to the notice of respondent that Yelugubanti Haribabu/petitioner herein cannot be shown as revision petitioner. The respondent submits that the notice already issued by arraying the petitioner herein as revision petitioner, was withdrawn. On 25.08.2017, the 7th respondent in the writ petition filed revision and was taken on file in case No.REV-DSECOROR (PPB)/05/2016-JA(D6)-CLO-EG and the revision was disposed of vide order dated 12.02.2018. Therefore, no contempt, much less deliberate disobedience as complained by the petitioner, is shown by the respondent. He prays for dismissing the contempt case.

I have heard the counsel. Perused the record and noted the respective submissions.

The petitioner complains against the respondent that he directed one of the parties to file revision petition and such direction amounts to contempt of this order dated 29.06.2017. From the stand taken by the respondent, it is clear the omission now

pointed out by the petitioner was corrected by withdrawing the notice. Thereafter, the revision is taken on file at the instance of Mangina Venkata Subba Lakshmi i.e., respondent No.7 in the writ petition. Section 9 of the ROR Act confers jurisdiction on District Collector/Joint Collector to entertain revision against the order passed under the ROR Act. The petitioner contends that disobedience since is brought to the notice of the Court, the Court should punish the respondent under the Contempt of Courts Act. The contention of petitioner is misconceived. The Courts jurisdiction in respect of civil contempt is primarily remedial, the basic object being to coerce the offender into obeying the Court judgment or order. Committal is granted mainly for the purpose of enforcing judgments in civil disputes. The contempt once brought to the notice of the Court, the complaint is between the Court and contemnor. The petitioner cannot compel the Court to punish the respondent by accepting the stand of petitioner.

Section 2 (b) of the Contempt of Courts Act defines civil contempt as follows:

“Civil contempt” means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court.

In the case on hand, there is no wilful disobedience of the respondent as complained by the petitioner.

Prima facie, this Court is of the view that issuing notices cannot and could not be treated as disobeying the order of the Court and secondly the respondent replies by saying the omission

pointed out by petitioner was corrected and later on, the revision was taken on file at the instance of Smt.Mangina Venkata Subba Lakshmi. The petitioner cannot and could not use the contempt jurisdiction to coerce the parties to act in the manner he desires. The contempt case has been filed with such view in mind and this Court is not persuaded with any of the grounds raised by the petitioner.

The contempt case fails and is, accordingly, dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending stand closed.

25th April, 2018

Lrkm



S.V.BHATT,J