

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

C.C. No. 218 of 2017

ORDER :

This Contempt Case is filed alleging violation of orders of this Court dated 27.01.2015 in W.P.No.18440 of 2014, wherein and whereby this Court allowed the Writ Petition directing the 3rd respondent Corporation to take necessary steps immediately for allotment of shops to the petitioner as per its resolution dated 14.09.2013 within a period of three (3) months from the date of receipt of a copy of the order. It is also directed that in case the 3rd respondent Corporation is unable to allot shops as per resolution dated 14.09.2013 within the aforesaid period, it shall take steps for payment of compensation according to law within three (3) months thereafter and that in view of the insensitive and adamant attitude of the 3rd respondent Corporation for untenable grounds in the counter and high handed action of the 3rd respondent Corporation, the 3rd respondent was directed to pay costs of Rs.25,000/- (Rupees twenty five thousand only) to the writ petitioner and the same shall be recovered from the salary of the concerned officials, who are responsible for such actions.

2. Counter affidavit is filed by the respondent stating that the respondent has not violated the orders passed by this Court. In pursuant to notice issued by the respondent to the petitioner through Lr.No.G1/42/2014, dated 18.07.2017, the petitioner submitted photo copies of registered document

bearing Nos.45 of 1973, photocopies of property tax receipts of House Nos. 2-4-26, 2-4-27, 2-4-33 & 2-4-34 and photocopies of permission proceedings issued in the year 1988. It is also stated that the area of the plot and survey number is nowhere mentioned in the registered document submitted by the petitioner. In the certified copy of registration document No.45 of 1973, it is found that there are only three rooms and part of the area transacted in the map facing 80 feet road. As per the permission copy submitted by the petitioner, there is 80 feet existing road and petitioner has to maintain 4.56 meters as front set back from the road as per the permission proceeding No.BA/7189/G2-88, dated 31.12.1988. The documents submitted by the petitioner and existing site are not matching in terms of the area or house number of building permission obtained and sought for dismissal of the Contempt Case.

3. Heard learned counsel for the petitioner and learned Special Government Pleader appearing for respondent.

4. Learned counsel for the petitioner submits that this Court allowed the Writ Petition with costs holding that the petitioner has title to the subject property and that after obtaining permission, she made construction over the subject property and found that the respondents illegally demolished the structures over the subject property and widened the road and that the same is confirmed by the Division Bench in *toto* in WA No.451 of 2015, as such, it is not open for the respondent to once again go into the aspect of title or grant of permission to

the petitioner, by sitting over the judgment of the Division Bench. He also submits that since costs were imposed on the respondent-Municipal Corporation by allowing the Writ Petition, the respondent is trying to circumvent orders passed by this Court. He also submits that all necessary documents, as requested by the respondent were produced before him.

5. On the other hand, learned Special Government Pleader appearing for respondent submits that the petitioner failed to prove her title, as such, the respondent rightly rejected the case of the petitioner for grant of compensation, which cannot be found fault with. He also submits that merits and demerits of the order passed by the respondent cannot be challenged in the Contempt Case, since the amount has to be paid from the public exchequer and that the respondent has to be doubly careful in paying compensation, as such, the respondent is justified in rejecting the case of the petitioner for granting of compensation.

6. In this case, it is to be seen that the Contempt Case was listed on 17.03.2017 and thereafter, underwent several adjournments on the ground that Writ Appeal filed by the respondent-Municipal Corporation, is pending. This Court, after hearing the parties at length allowed the Writ Petition holding that there is no dispute regarding title of the petitioner and obtaining of permission for construction of the property. This Court also rejected the plea of the respondent Corporation that the petitioner on her own demolished the structures, after

obtaining *status quo* orders in the Writ Petition and the said aspect was also confirmed by the Division Bench in the Writ Appeal, filed by the respondent-Municipal Corporation.

7. The case of the respondent Corporation, at the first instance, is that petitioner consented for road widening, but no record was produced evidencing the same. The assertion of the petitioner that the municipality passed resolution for allotment of 13 shops to the petitioner in *lieu* of acquisition of petitioner's land is also not disputed. Basing on the said fact only, alternative prayer for grant of 13 shops was granted, which goes to show that the respondent had accepted the title of the petitioner and in *lieu* of compensation, the respondent-Municipal Corporation wanted to allot 13 shops to the petitioner. This Court has already held that petitioner is the owner and possessor of subject property, and obtained permission for construction of structures. Basing on the aforesaid findings, this Court allowed the writ petition, which is confirmed by the Division Bench of this Court dated 11.07.2017 in Writ Appeal No.451 of 2015, which is filed by the respondent-Municipal Corporation. Now, the respondent-Municipal Corporation, cannot turn around, by sitting in an appeal over the orders of this Court in the Writ Petition, which is confirmed by Division Bench of this Court in Writ Appeal, and go into the aspect of title of the petitioner over the subject property and seek documents for the said purpose and reject the case of the petitioner. The respondent has no business to go into the

aspect of title at this stage. The respondent was only directed to pay compensation in accordance with law, if it is not possible for it to allot 13 shops in lieu of acquisition of the property of the petitioner for road widening. The Hon'ble Division Bench, while dealing with the said issue, observed as follows:

“The right of the appellant-corporation to remove structures, for the purpose of road widening, is traceable to Sections 145 to 147 of the Greater Hyderabad Municipal Corporation Act. While Section 146 provides for acquisition of immovable property by agreement, Section 147 enables acquisition of property in terms of the Land Acquisition Act, 1894 which is now replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The order of the learned Single Judge, in directing allotment of alternate mulgies to the petitioner, appears to be based on the resolution of the appellant-corporation dated 14.09.2013. While the said relief, no doubt, goes beyond the relief sought for in the writ petition, it also does appear that the appellant-corporation was given the choice of either allotting alternate mulgies or to pay compensation. There was no compulsion on the appellant-corporation to provide alternate mulgies and, in case, they were not inclined to do so, it was always open to them to pay compensation after acquisition of the subject properties, in accordance with law, which, failing agreement under Section 146 of the GHMC Act, can only be in accordance with the provisions of the Land Acquisition Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which came into force on 01.01.2014. The learned Single Judge was also justified in imposing exemplary costs of Rs.25,000/- on the appellant-corporation leaving it open to them to recover the same from concerned officials' salary. Interference in an intra-court appeal, under Clause 15 of the Letters Patent, is justified only if the order of the learned Single Judge suffers from a patent illegality. We find no such infirmity in the order under appeal.”

A perusal of the proceeding sheet also goes to show that the matter was adjourned several occasions at the behest of the respondent-Municipal Corporation. Though this Court has given ample opportunity to respondent to comply the order passed by this Court, the learned Special Government Pleader has vehemently supported the stand taken by the respondent, which shows the adamant nature of the respondent

organization once again, as was shown in the writ petition, for which, costs of Rs.25,000/- was imposed. The learned Special Government Pleader produced copy of the order dated 31.03.2018 passed by the respondent stating that the documents submitted by the petitioner and the existing site are not matching in terms of the area, or house number of the building for which permission obtained, as such, compensation cannot be paid to the petitioner and as held above, such stand of respondent is in flagrant violation of order passed by this Court. A perusal of the said order goes to show that the same was not communicated to the petitioner. This attitude of the respondent cannot be countenanced. **Maninderjit Singh Bitta v.**

Union of India and others¹, held as follows:

“20. In exercise of its contempt jurisdiction, the courts are primarily concerned with enquiring whether the contemnor is guilty of intentional and wilful violation of the orders of the court, even to constitute a civil contempt. Every party to lis before the court, and even otherwise, is expected to obey the orders of the court in its true spirit and substance. Every person is required to respect and obey the orders of the court with due dignity for the institution. The government departments are no exception to it. The departments or instrumentalities of the State must act expeditiously as per orders of the court and if such orders postulate any schedule, then it must be adhered to. Whenever there are obstructions or difficulties in compliance with the orders of the court, least that is expected of the government department or its functionaries is to approach the court for extension of time or clarifications, if called for. But, where the party neither obeys the orders of the court nor approaches the court making appropriate prayers for extension of time or variation of order, the only possible inference in law is that such party disobeys the orders of the court. In other words, it is intentionally not carrying out the orders of the court. Flagrant violation of the court's orders would reflect the attitude of the party concerned to undermine the authority of the courts, its dignity and the administration of justice.

29. Lethargy, ignorance, official delays and absence of motivation can hardly be offered as any defence in an action for contempt. Inordinate delay in complying with the orders of the courts has also received judicial criticism. It is inappropriate for the parties concerned to keep the execution of the court's orders in abeyance for an inordinate period. Inaction or even dormant behaviour by the officers in the highest echelons in the hierarchy of the Government in complying with the directions/orders of this Court certainly amounts to disobedience. Inordinate delay of years in complying with the orders of the court or in complying with the directed stipulations within the prescribed time, has been viewed by this Court seriously and held to be the contempt of court, as it undermines the dignity of the court...”

8. The explanation offered in the counter affidavit by the respondent is not at all satisfactory and that it is given only to wriggle out of this Contempt Case. The action of the

¹ (2012) 1 Supreme Court Cases 273

respondent-Municipality in demolishing the structures of the petitioner by taking law into their hands, without payment of compensation was deprecated by this Court in the Writ Petition itself. The unconditional apology offered by him does not appear to be a genuine one and not in good faith. If the officials of the Government like respondent takes the orders of this Court very lightly, they cannot be let off like that. The attitude of the respondent goes to show that he is not only negligent but also has no respect for the orders passed by this Court, thereby willfully disobeyed the orders passed by this Court.

9. In these days, it has become habit for the officials not to implement the orders passed by this Court in many cases. Only after Contempt Cases are filed, the orders passed by this Court are being implemented. In this case, even the Writ Appeal filed by the respondent was dismissed by confirming the orders passed by this Court in the Writ Petition, the respondent has not implemented the orders. These facts would clearly show that the respondent has utter disregard to the orders passed by this Court.

10. The facts and circumstances narrated above would clearly show that the respondent in utter disregard to the orders of this Court, willfully violated the same. The apology tendered by him in the affidavit is a mere pretence and in a routine manner, does not deserve any sympathy, since the subsequent events even after admission of the contempt case disclose the continuous disobedience of the order of the Court. The disobedience is so

serious and patent, leaves this court with no option except to punish the respondent for committing contempt of Court.

For all the foregoing discussions and conclusions, this Court, holding the respondent guilty of contempt of this Court under [Section 2\(b\)](#) of the Contempt of Courts Act, 1971 read with [Article 215](#) of the Constitution of India, hereby convicts and sentences him to undergo simple imprisonment for a period of one month. Taking into account the ordeal faced by the petitioner in this case, this Court is also inclined to impose fine of Rs.25,000/- (Rupees twenty five thousand only) on respondent, payable to the petitioner from his pocket, within a period of three weeks, in default to undergo further imprisonment for two weeks. However, this order remains suspended for a period of four weeks to enable the respondent to prefer appeal.

The Contempt Case is accordingly allowed. As a sequel thereto, miscellaneous applications, if any, pending in this Contempt Case shall stand closed.

A.RAJASHEKER REDDY, J

03.06.2019

kvs

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY



kvs

