

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CONTEMPT CASE (C) No. 1189 of 2019

1. Girja Shankar Dubey, S/o Late Bisahu Prasad Dubey, Aged About 44 Years, R/o Village Kalkasa, Post Malighori, Tahsil: Dondilohara, District : Balod, Chhattisgarh

---- Appellant

Versus

1. Shri Tarun Pal Lahare, Chief Municipal Officer, Nagar Panchayat Dondiloharaa, District Balod Chhattisgarh At Present Posted As Deputy Commissioner, Municipal Corporation Bhilai, District : Durg, Chhattisgarh
2. Netram Ratnersh, Chief Municipal Officer, Nagar Panchayat Dondilohara, District : Balod, Chhattisgarh
3. Alarmal Mangidi, Director, Urban And Administrative Department, Atal Nagar, Raipur, District : Raipur, Chhattisgarh

---Respondents

with

MCC No. 221 of 2020

1. Tarun Pal Lahere Aged About 32 Years Deputy Commissioner, Municipal Corporation, Bhilai, District : Durg, Chhattisgarh

---- Appellant

Versus

1. Girja Shankar Dubey, S/o Late Bisahu Prasad Dubey, Aged About 44 Years, R/o Village Kalkasa, Post Malighori, Tahsil Dondilohara, District : Balod, Chhattisgarh
2. Bhupendra Waderkar, Social Welfare Officer, Municipal Corporation Rajnandgaon, District : Rajnandgaon, Chhattisgarh
3. Ram Kumar Koliyare, Chief Municipal Officer, Nagar Panchayat Dondilohara, District : Balod, Chhattisgarh

Non-Applicants

For Appellant	:	Mr.Rahul Agrawal, Advocate
For Non-Applicant	:	Mr. Yashwant Thakur, Advocate

DB : Hon'ble Shri Manindra Mohan Shrivastava, Judge
Hon'ble Smt. Justice Vimla Singh Kapoor, Judge
Order on Board

28.02.2020

1. Application for condonation of delay in filing the application is considered and delay is condoned.
2. The aforesaid contempt petition and MCC are being disposed off by this common order.
3. The petitioner filed a petition seeking relief for release of amount following the conclusion of the contract. The petition was, however, dismissed. Aggrieved by the order of the dismissal, a writ appeal i.e., W.A. No. 424 of 2017 was filed by the petitioner. In the appeal, an order was passed on 15.11.2017. The operative part of the order reads as under:

“Considering that reason for non-payment by the respondents are beyond their control, at present, we are not inclined to issue notices to respondents. A copy of this order shall be placed by the petitioner before each of the respondents as also before the Director, Urban and Administration Department, Government of Chhattisgarh for necessary compliance. If necessary sanction is not granted by the Director within a period of 30 days and payment is not made to the petitioner within 30 days from the date of sanction, it would be open for the petitioner to revive the contempt petition and in such an eventuality, non compliance of judicial order shall be viewed strictly and appropriate order would be passed.”

4. On the allegation that the order was not being complied with, the petitioner filed a Contempt Petition No. 224 of 2018. While this contempt petition remained pending without any order passed therein, the petitioner chose to file another Contempt Petition No. 752 of 2019. In this contempt petition, the petitioner did not disclose that he had

already filed a Contempt Petition No. 224 of 2018, which was pending. The matter was listed before the Court on 19.09.2019, on which date, an order was passed for listing of the case for further consideration before the regular court, dealing with the matter as per the roster.

Thereafter, the said Contempt Petition No. 752 of 2019 was listed before this Court and this Court disposed off the contempt petition on 27.09.2019 directing the authorities to take necessary steps towards compliance of the order of the Court. The Court was not inclined to issue notice in the contempt petition No. 752 of 2019 and accordingly disposed off the Contempt Petition.

5. The earlier Contempt Case No. 224 of 2018 was listed before the Division Bench of this Court on 17.10.2019. On that date, a statement was made that the order of the Court has been complied with and accordingly, the contempt petition was not pressed. In view of the submission, the contempt petition was dismissed as not pressed.
6. The contempt petitioner, while filling the Contempt Petition No. 752 of 2019 did not disclose in the contempt petition, nor before the Court at the time of hearing that a contempt petition has already been filed and is pending consideration. Even when an order was passed by this Court on 27.09.2019, it was not disclosed. Not only this, when the contempt case No. 224 of 2018 was listed for orders, then also, it was not disclosed to the Court that any subsequent contempt petition orders have already been passed on 27.09.2019. It would thus be clear that the petitioner conveniently suppressed the material facts from the Court while filing second Contempt Petition No. 752 of 2019

and at the time when Contempt Case No. 224 of 2018 was disposed off on 17.10.2019.

7. The present Contempt Case No. 1189 of 2018 has been filed again alleging willful dis-obedience of the court and in these contempt petitions, the petitioner has not again disclosed that he had already filed Contempt Case No. 224 of 2018, which was subsequently dismissed as not pressed vide order dated 17.10.2019.
8. Now in the MCC No. 221 of 2020 filed by the Respondent No. 1 ie., Tarun Pal Lahare, who was the then Chief Municipal Officer of Dondi Lohara, all the facts, as stated above, have been disclosed which clearly speaks volume of the manner in which the petitioner has been suppressing the facts for his own benefit and convenience while alleging willful disobedience of the Court order in Contempt Case No. 224 of 2018 and Contempt Petition No. 752 of 2019.
9. Learned counsel for the petitioner, appearing in both these cases, also did not disclose the facts and different orders came to be passed. At the time of disposal of Contempt Petition No. 752 of 2019 vide order dated 27.09.2019, it was not brought to the notice of this Division Bench that a Contempt Case No. 224 of 2018 was listed before another Division Bench; the fact that Contempt Petition No. 752 of 2019 was filed and disposed off on 27.09.2019 was also not disclosed. Therefore, not only the party, the conduct of the counsel also is highly condemnable. The counsel ought to be careful in the matter.
10. The petitioner has misused and abused the proceedings of this Court by filing application without disclosing material facts and thereby

obtaining orders. In that view of the matter, the Contempt Petition No. 1189 of 2019 is dismissed and MCC No. 221 of 2020 is allowed. Order dated 27.09.2019 passed in Contempt Case No. 752 of 2019 is hereby recalled and that contempt petition is also dismissed.

11. Learned counsel for the appellant has also offered his sincere apology and assured the Court that he will remain careful and vigilant in the future and such incidents shall not be repeated in future.
12. The petitioner has abused the proceedings of this Court. Instead of initiating criminal proceedings against the petitioner, taking into consideration the overall circumstances and that the proceedings were being filed alleging for willful disobedience of the court's order, initiating criminal proceedings, we are inclined to impose cost of Rs. 25,000/- on the petitioner. The said cost shall be payable by the petitioner to the respondents.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge