

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CONTEMPT CASE No. 1534 of 2019

ORDER: (Per Sri Justice M.S.Ramachandra Rao)

This Contempt Case is filed by the petitioner alleging willful disobedience of the order dt.08-08-2018 in I.A.No.1 of 2018 in W.P.No.28176 of 2018.

2. Petitioner had filed the said Writ Petition stating that he was the absolute owner and possessor of house bearing H.No.3-30 along with appurtenant land an extent of 169 sq. yds situated at Chelpur Village, Huzurabad Mandal, Karimnagar District having inherited it from his father, and he claimed to be in continuous possession and enjoyment of the said land by paying house tax and electricity charges. Copies of which were filed as Exs.P-1 to P-3 in the Writ Petition.

3. He alleged in the Writ Petition that the respondents in the Contempt Case, in collusion with Ex.Sarpach of the said village, have proposed to widen the existing mud road from 13' to 18' by laying C.C. road as well as mission Bhageeratha pipe lines in the village colonies including the area adjacent to western side of the petitioner's house and appurtenant land; instead of taking the land equally on both sides of existing road, without following due process of law, they interfered with the possession of the petitioner and tried to demolish the petitioner's house for laying the C.C. road and the pipe lines. He contended that the Ex.Sarpanch of Chelpur Gram Panchayat demolished part of petitioner's

compound wall along with existing lavatory and toilet without following the due procedure. He filed Ex.P-4 photograph also along with the Writ Petition.

4. He contended that the respondents were insisting that he should voluntarily consent for widening of the road and that he apprehended demolition of his house in the road widening process.

5. In the Writ Petition, he sought an interim direction in IA.No.1 of 2018 not to interfere with his peaceful possession and enjoyment of the said property in an extent of 169 sq. yds.

6. On 08-08-2018, when the Writ Petition was listed along with I.A.No.1 of 2018, learned Government Pleader for Panchayat Raj took notice for respondent Nos.1, 3 and 5 in the Writ Petition, learned Government Pleader for Revenue took notice for 2nd respondent and Sri G.Narender Reddy, learned Standing Counsel for 4th respondent in the Writ Petition. Notice was directed to be served on the 6th respondent, the Ex.Sarpanch of the village. This Court, on that day, granted direction to the respondents not to interfere with the peaceful possession and enjoyment of petitioner's property as well as appurtenant land pending disposal of the Writ Petition in IA.No.1 of 2018.

7. Alleging that the said order was violated, though the said order was communicated by the petitioner on 12-08-2019 to the respondents in the Contempt Case and that they laid C.C. road as well as Mission Bhageeratha pipeline apart from erecting electricity pole on the western side of the petitioner's house/land, this Contempt Case was filed.

8. In the counter filed by 1st respondent it is contended that there was a decision in Gram Sabha held on 14-04-2018 to widen the internal roads and to lay C.C. roads and drains and that the compound wall/boundary as per marking should be removed by the residents of the Village voluntarily within 15 days; that a notice was also issued to the petitioner by the Panchayat Secretary of the Gram Panchayat, Chelpur on 20-04-2018; that petitioner did not remove his compound wall and also did not file any objections regarding its removal; that petitioner gave a declaration on 05-05-2018 to the Panchayat Secretary that he would remove his wall within 7 days voluntarily; and thereafter the Gram Panchayat removed the wall on 20-06-2018 much before the interim order passed by the Court on 08-08-2018.

9. *It is contended that the drains and CC roads were laid by the Executive Engineer (PR), Huzurabad and they are in existence now at the spot.*

10. It is contended that the C.C. road work was done in June, 2018 itself recording the date as 23-06-2018 in M.Book. It is contended that after receipt of the Court orders on 08-08-2018, no works were taken up in the premises of the petitioner.

11. The 2nd respondent in the Contempt Case filed an identical counter. Copy of the letter allegedly written by the petitioner on 05-05-2018 agreeing to remove his compound wall voluntarily was filed along with the material papers. Copy of the M.Book containing certain measurements were also filed along with the counter of 2nd respondent.

12. The 4th respondent in the Contempt Case filed another counter-affidavit denying the contentions of the petitioner and contending that house No.3-30 is actually in the name of the son of the petitioner and petitioner's house has a H.No.3-29 and the petitioner had no *locus* to file the Writ Petition.

13. It is further contended that wall of the bath room towards eastern side i.e. towards road was pulled down with the consent of the petitioner on 28-05-2018 and C.C. road was laid on the existing road before 25-06-2018. It is contended that even the petitioner admitted to the demolition of the same prior to the filing of the Writ Petition. *It is however contended that C.C. road was laid only on the existing road and there was no widening of the road.*

Reply affidavit filed by the petitioner

14. Reply affidavit is filed by petitioner to the counter of 1st respondent reiterating the contents of the affidavit filed in support of the Contempt Case and stating that C.C. road was laid in the open land of the petitioner on western side in August, 2019 in violation of the said interim order.

15. In his reply affidavit the petitioner denied that he gave any written declaration on 05-05-2018 agreeing that he would remove his wall within 7 days voluntarily and he has no objection if the Gram Panchayat removes the wall for the purpose of road widening and laying of C.C. road and Mission Bhageeratha pipelines, and he stated that the signature on the said declaration does not belong to him. He also stated

that on 06-05-2018 his younger son was getting married and due to marriage activity he was very busy in distributing cards and he did not sign any such declaration. He also contended that the contents of the M.Book are all false.

16. It is further contended that after the interim order was passed by the Court on 8.8.2018 in IA No.1 of 2018 in the W.P.No.28176 of 2018, he sent a letter to the respondents by RPAD on 12-08-2019, but they went ahead and laid the C.C. road, Mission Bhageeratha pipelines and also erected electricity pole on western side of his house as well as western side of his open land from Tamarind Tree (Mondichinta) to Dr.Buchi Babu's property, in clear violation and willful disobedience of the orders of this Court. It is contended that the C.C. road was laid towards the western side of his house bearing No.3-30 and towards the tamarind tree where his open land of an extent of 169 sq. yds exists, that they interfered with the part of ½ feet of entire compound wall near Tamarind Tree and near the old electrical pole interfered with 2 ft in his property and laid the C.C. road as well as the new electrical pole in the presence of respondent Nos.3 and 4.

17. Petitioner filed another reply affidavit to the counter of 2nd respondent reiterating the above statements.

The consideration by the Court

18. I have noted the contentions of both sides.

19. Learned counsel for petitioner, learned Government Pleader for Panchayat Raj appearing for respondent Nos.1, 3 and 5, learned Government Pleader for Revenue appearing for 2nd respondent and Sri G.Narender Reddy, learned Standing Counsel for 4th respondent reiterated the respective contentions.

20. From the facts narrated above, it is clear that even prior to the filing of the Writ Petition, according to the petitioner, part of his compound wall along with existing latrine and toilet were demolished by the respondents without following due process of law.

21. In this Contempt case petitioner is alleging violation by respondents of the interim order dt.8-8-2018 in IA No.1 of 2018 in WP.28176 of 2018 by laying of C.C. road in his land after widening the existing road in the petitioner's property and also laying drains and Mission Bhagiratha pipe line without acquiring the same by following due process of law.

22. The plea in the counter affidavit is that C.C. road was laid only on the existing road. In paragraph Nos.6 and 7 of the counter filed by 4th respondent, he stated that C.C. road was laid only on the existing road before 25-06-2018.

23. If really, the intention of respondents was to lay the C.C. road only on the existing road as is alleged by 4th respondent, there was no necessity for the Grama Sabha asking the residents of the village like the petitioner to voluntarily remove their compound walls. The fact that the respondents are even relying on a letter dt.05-05-2018 of the petitioner

stating that he has no objection to the laying of C.C. road itself shows that respondents intended to lay the C.C. road in the land belonging to the petitioner by widening the existing road.

24. In my considered opinion, 4th respondent is not speaking the truth because of not only the above reasons but also because the resolution passed by the Gram Panchayat on 14-04-2018 spoke of *widening* of the existing roads and not merely converting the existing road into C.C. road. If really C.C. road was not laid in the property belonging to the petitioner and C.C. road was only laid on the existing road, there would have been no requirement of any land of the petitioner or for demolition of his compound wall.

25. So the plea of the respondents that they only laid CC road on the existing road in the petitioner's property after the compound wall was demolished cannot be believed, particularly when they admit that in his land, after demolition of compound wall, pipelines of Mission Bhageeratha were laid and are existing.

26. The plea of 4th respondent in the Contempt Case that House No.3-30 is actually in the name of the son of the petitioner and petitioner's house has a H.No.3-29, and the petitioner had no *locus* to file the Writ Petition is without any merit because no material in respect of this plea has been filed by the respondents.

27. Therefore I am of the opinion that 4th respondent has committed Contempt of Court by violating the interim order dt.08-08-2018 in I.A.No.1 of 2018 in W.P.No.28176 of 2018 by laying the C.C. road and

mission Bhageeratha pipeline in the area covered by petitioner's property.

28. Accordingly, the Contempt Case is allowed; and the 4th respondent is sentenced to imprisonment for a period of one (01) month, fine of Rs.2,000/- (Rupees Two Thousand only) apart from being held liable to pay costs of Rs.25,000/- (Rupees Twenty Five Thousand only) to the petitioner. The petitioner shall deposit subsistence allowance @ Rs.200/- (Rupees Two Hundred only) per day within four (04) weeks. The sentence of imprisonment imposed on 4th respondent is suspended for a period of four (04) weeks.

29. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

Date: 06-03-2020

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