

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CONTEMPT CASE No.2465 of 2018

ORDER:

This Contempt Case is filed to punish the respondent for willful disobedience of the order dt.24-04-2018 in I.A.No.2 of 2018 in W.P.W.No.12294 of 2018.

2. The said order was passed directing the respondent in the Contempt Case to stop forthwith the construction being made by respondent Nos.4 to 10 in the Writ Petition since the said construction was allowed to have been made without leaving mandatory set backs prescribed under G.O.Ms.No.168 dt.07-04-2012.

3. According to the counter filed by respondent, he received the copy of the order passed by this Court on 02-05-2018. Yet he waited till 14-05-2018 to issue show cause notice to the unofficial respondent Nos.4 to 10 in the Writ Petition. Why he waited for the next 12 days is not explained.

4. Even in the notice d.14-05-2018 issued by him to 8th respondent in the Writ Petition, which is filed at page-7 of the papers filed by petitioner along with Contempt Case, the construction being proceeded with by the said respondent was directed to be stopped. The construction in question was an extension of the portico into the setback area which cannot be permitted as per G.O.Ms.No.168 dt.07-04-2012. After issuing notice on 14-05-2018 to the 8th respondent in the Writ

Petition as well as other respondents, it appears that the respondent in the Contempt Case did nothing else. Therefore, I hold that respondent had willfully failed to implement the order dt.24-04-2018 in I.A.No.2 of 2018 in W.P.No.12294 of 2018.

5. In the counter filed in the Contempt Case, a statement is made that the Gram Panchayat passed a resolution permitting construction to extend the portico/pergolas. How such permission could be granted when extension is protruding into the set backs, is also not explained.

6. In paragraph-7 of the counter filed, it is also contended that the constructions were already made before the orders were passed by this Court, but there is no evidence to show this when the very notice dt.14-05-2018 issued by respondent shows that the constructions were in progress. This plea taken by respondent is a false plea.

7. Earlier when the matter was listed, a representation was made that to the show cause notice dt.14-05-2018 issued by respondent, the unofficial respondents in the Writ Petition (respondent Nos.4 to 10) had given an explanation stating that they had already completed the construction prior to the issuance of the show cause notice. Time was sought to produce the said replies. But no such replies to the said show cause notice given by respondent Nos.4 to 10 in the Writ Petition have been filed in this Court, and it is now said that there were no such written responses to the show cause notice dt.14-05-2018. The very fact that the respondent waited for 12 days after he received the order copy on 02-05-2018, though the order passed by this Court was on

24-04-2018 in the presence of the learned Standing Counsel for the 3rd respondent in the Writ Petition (which itself implies that respondent is deemed to be aware of the order dt.24-04-2018 itself), shows that respondent had no intention to stop any construction by respondent Nos.4 to 10 in the Writ Petition, and he deliberately delayed doing anything to favour respondent Nos.4 to 10 in the Writ Petition.

8. Accordingly, I hold that there is willful and deliberate violation of the order dt.24-04-2018 passed in W.P.No.12294 of 2018 by respondent, and the respondent is therefore sentenced to imprisonment for one month and fine of Rs.2,000/- (Rupees Two Thousand only) in exercise of power conferred on this Court under Section 12 of the Contempt of Courts Act, 1971. The respondent shall also pay costs of Rs.20,000/- (Rupees Twenty Thousand only) to the petitioners. The petitioners shall deposit subsistence allowance at Rs.200/- per day within four weeks. The sentence of imprisonment imposed on the respondent is suspended for a period of four weeks.

9. The Contempt Case is allowed as above.

10. Consequently, miscellaneous petitions pending, if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

Date: 07-02-2020
Vsv