

IN THE HIGH COURT OF ORISSA AT CUTTACK
CONTC No.196 of 2016

Snigdha Mishra

....

Petitioner(s)
Mr. G. Mishra,
Sr. Advocate

-versus-

Samuel Rout & Ors.

....

Opposite Party(s)
Mr. B. Bhuyan,
Advocate
Mr. S.K. Das,
Advocate

CORAM:
JUSTICE BISWANATH RATH

ORDER
18.04.2022

Order No.

09. 1. Undisputedly the C.M.P. No.526 of 2014 involves a challenge to the order of rejection of an application U/o.39 rule 3 of C.P.C. pending consideration of an application U/o.39 rule 1 & 2 of C.P.C.
2. In entertaining the C.M.P. No.526 of 2014 a Bench of this Court by order dated 30.04.2014 had passed the following :-

“

C.M.P. No.526 of 2014

&

Misc. Case No.481 of 2014

Status quo as on today in respect of the enquiry conducted pursuant to letter no. 55/CCEB dated 23.3.2014 shall be maintained by the parties till the next listing.

Mr. S.S. Das, learned Senior Counsel enters appearance on behalf opposite party Nos.1 by filing

Vakalatnama in Court today. The same be kept on record.

Mr. S.P. Misra, learned Senior Counsel enters appearance on behalf of opposite party Nos.2 to 5 by filing Vakalatnama in Court today. The same be kept on record.

A copy of the writ petition be served on learned counsel appearing for the opposite party No.1 so also learned counsel appearing for opposite party Nos.2 to 5 by tomorrow (1.5.2014).

Put up this matter on 2nd May, 2014.”

3. In disposal of the above noted C.M.P. it appears, by order dated 17.11.2015, this Court considering long continuance of the interim order while allowing continuance of the order dated 30.04.2014 directed the trial court to conclude the proceeding vide C.S. No.6700 of 2014. In the meantime the suit could not be disposed of for there has been several extension of time, however the Civil Suit is still pending. The order passed by this Court on 28.02.2022 is reflected herein below:-

“1. Considering the reasons assigned and the constraint due to the pandemic COVID-19 in the State and also for the resolution of the Bar, it appears, the suit vide C.S. No.6700 of 2014 directed to be disposed of within the time stipulated in the earlier, could not be disposed of.

2. Considering the reasons assigned in the letter dated 10.02.2022 at flag 1, this Court grants two months’ more time for disposal of the C.S. No.6700 of 2014.

3. Office is directed to communicate this order to the concerned Court below forthwith.”

4. It is, at this stage of the matter, this Court finds, there is preferring of the contempt petition alleging violation of the order of status quo. This Court from the submission gathers, there has been some action contrary to the order of status quo being passed by this Court by the defendant-Opposite Parties therein. This Court finds,

the request involved consideration of an application U/o.39 Rule 3 of C.P.C. finally ended in disposal of the C.M.P. again involving the particular *lis*. The Civil Suit involves a cause of action dated 06.04.2014. While the matter stood thus, the contempt application filed based on a resolution / communication dated 30.01.2016 and admitted completely a new cause of action in absence of amendment to the plaint even. Petitioner alleges that present action is an attempt of the defendant / contemnor to nullify the interim protection granted by this Court required to continue till disposal of the suit. This Court observes, in the event there is violation of the order of injunction passed by the Court, there is sufficient remedy available U/o.39 Rule 2(a) of the C.P.C. Looking to the allegation that in the guise of maintenance of interim direction of this Court, the competent authority is found involving bringing in further proceedings to subvert the interim order, in the circumstance Mr. Mishra, learned Senior Advocate contended that the procedure adopted by the contemnor is an attempt to overreach the orders of this Court. Relying on a judgment in the case of *Nalin Bilochan Versus State of Jharkhand and Others* as reported in 2020 SCC OnLine Jhar 762 Mr. Mishra, learned Senior Advocate attempted to pursue his remedy under the contempt proceeding.

5. In consideration of the allegation made by the learned Senior Advocate appearing on behalf of the Petitioner, this Court here finds, undisputedly the civil suit involves a disciplinary proceeding and during pendency of consideration of an application U/o.39 Rules 1 & 2 of C.P.C. the trial court undertook the exercise U/o.39 Rule 3 of C.P.C and came to refuse such prayer. However, in entertaining the above noted C.M.P. a Bench of this Court passed an order of status quo as on the date 30.04.2014 involving the inquiry pursuant to the letter No.55/CCEB dated 23.03.2014. Undisputedly this order is

maintained till disposal of the suit. Mr. Mishra, learned Senior Advocate appearing on behalf of the Petitioner further make an allegation that in the meantime the authority has not only initiated another proceeding on the selfsame issue, but has also attempted to overreach the order of status quo involved in the contempt proceeding.

6. Considering the allegation of Mr. Mishra, learned Senior Advocate and looking to the civil suit, this Court finds, the civil suit involves the following relief:-

“That the plaintiff prays for the following reliefs :-

- (a) Let the Resolution dated 01.02.2014 as confirmed on 26.03.2014 passed by the Governing Body, Christ College be declared null and void and without jurisdiction ;
- (b) Let it be declared that the Resolution dated 17.03.2014 passed by the Executive Committee of CCEB is illegal invalid and non-existence in the eyes of law ;
- (c) Let it be declared that the formation of Enquiry Committee by the defendant No.1 and the vague allegations made in letter No.55 dated 23.03.2014 by the Secretary C.C.E.B. are illegal, without jurisdiction and against the principle of natural justice;
- (d) Let it be declared that the actions of the defendants are mala fide, without jurisdiction malicious and defamatory in nature and the defendants are jointly and severally liable to pay a damage of Rs.30,00,000/- (Rupees Thirty Lakhs) to the plaintiff;
- (e) Let the defendants be permanently restrained from taking any action in pursuance to the resolution dated 01.02.2014 passed by the G.B., the resolution dated 17.03.2014 passed by the Executive Committee, CCEB and the letter dated 23.03.2014 issued by the CCEB and the letter dated 23.03.2014 issued by the CCEB;

(f) Cost of the suit be decreed in favour of the plaintiff;

(g) Any other relief/ reliefs to which the plaintiff is found entitled to, be also granted in her favour;

On entire reading of the relief sought for in the suit, it appears, the Petitioner has a challenge to the resolution dated 1.02.2014 being confirmed on 26.03.2014 in the suit. Order of status quo continuing also involves above two orders. While seeking declaration of resolution on 17.03.2014 invalid and non-existence an attempt is also made to get a declaration that formation of the Enquiry Committee by the defendant is on vague allegation and without jurisdiction and further also against the principle of natural justice. Prayer also involves to declare the action of the defendant mala fide and without jurisdiction and further defamatory in nature and the defendants may be directed to pay the damages jointly and severally. Further there is also a request for permanently restraining the defendants. Coming back to the order / further action involving the contempt petition, this Court finds, the contempt application herein is a development on the decision of the College involved dated 30.01.2016. The development pursuant to the action dated 30.01.2016 is yet to be form part in the suit, there is even no amendment of the suit as of now. Further, if such order contravenes the order of status quo, cannot be the subject matter in contempt. This Court here opines that for the specific issue involved in the civil suit having a *lis* to be adjudicated in the pending suit, any further development while maintaining the order of status quo involving the issue involved therein cannot be considered by way of contempt application. It is, at this stage of the matter, this Court also examining the citation cited at Bar, finds, the case involved is not a mere violation of the interim direction of the Court and the same

does not apply to the case at hand. Undisputedly there has been subsequent action, which is not the forming part of the suit.

7. The contempt petition stands dropped. If the Petitioner is so advised, may avail any other remedy available for this purpose.

(Biswanath Rath)
Judge

A.K. Jena

