

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

WEDNESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CONTEMPT CASE NO: 1117 OF 2022

Contempt Case under Section 10 & 12 of Contempt of Courts Act to punish the Respondents herein for violating the orders of the High Court dated 23-06-2021 in I.A. NO. 2 OF 2021 in CRP No. 890 of 2021.

Between:

1. Smt. L. Sujatha, W/o. Sri L. Sudhakar Reddy, Aged about 85 years, Occ. Housewife
2. Sri L. Rajasekhar reddy, S/o. Sri L. Sudhakar Reddy, Aged about 54 years, Occ. Business
3. Sri L. Chandrasekhar Reddy, S/o. Sri L. Sudhakar Reddy, Aged about 51 years, Occ. Business
4. Sri L. Shashi Shekhar Reddy, S/o. Sri L. Sudhakar Reddy, Aged about 49 years, Occ. Housewife
5. Smt. G. Madhavalatha, W/o. G. Rajendra Reddy, Aged about 57 years, Occ. Business (All the Petitioners are residents of H.No. 6-3-1176, Begumpet, Hyderabad - 500016, represented by their GPA Holder Sri L. Shashi Shekhar Reddy, Petitioner No. 4 herein)
6. M/s. Leo Estatwe Developers, Represented by Sri L. Shashi Shekhar Reddy, S/o. Sri L. Sudhakar Reddy having its registered office at 6-3-1176, Begumpet, Hyderabad - 500016.

...PETITIONERS/ Petitioners

AND

1. Mohd. Moinuddin S/o. Late Nizamuddin, aged about 72 years, R/o. H. No. 1-56, Narsinghi village, Gandipet Mandal, Ranga Reddy District
2. Shafiuddin, S/o. Mohd. Moinuddin, aged about. Major, Occ. Business, R/o. H. No. 1-56, Narsinghi Village, Gandipet Mandal, Ranga Reddy District.
3. Rizwanuddin, S/o. Jahangiruddin, aged about. Major, Occ. Business, R/o. Narsinghi Village, Gandipet Mandal, - Ranga Reddy District.
4. Rizwanuddin, S/o. Quamaruddin, aged about. Major, Occ. Business, R/o. Narsinghi Village, Gandipet Mandal, Ranga Reddy District.

5. Riazuddin, S/o. Fayazuddin, aged about Major, Occ. Business, R/o. Narsinghi Village, Gandipet Mandal, Ranga Reddy District.
6. Malik, S/o. Asmath Jahan, Aged about. Major, Occ. Business, (R/o. Narsinghi Village, Gandipet Mandal, Ranga Reddy District.
7. Moinuddin, S/o. Aminuddin, aged about. Major, Occ. Business, R/o. Narsinghi Village, Gandipet Mandal, Ranga Reddy District.

...CONTEMNORS/ Respondents

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave to the petitioners herein to file the present contempt case against Respondent Nos. 2, 4, 5 and 6 as well.

Counsel for the Petitioner: SRI. P BALAJI VARMA

Counsel for the Respondents: SRI GOURAVULU ANIL KUMAR

The Court made the following: ORDER

HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

C.C.NO.1117 of 2022

ORDER:

This contempt case has been filed by the petitioners with a prayer to punish the respondents for the alleged deliberate, willful, intentional and conscious act of contempt of Court on the ground that they violated the orders of this Court in I.A.No.2 of 2021 in C.R.P. No.890 of 2021. The defendant No.4 in the above referred C.R.P.No.890 of 2021 has filed his affidavit in support of his petition with the following averments.

2. He being petitioner in the main C.R.P. and G.P.A. holder of the other petitioners are well acquainted with the facts of the case. All the petitioners entered into an agreement of sale with the legal heirs of original owners of the property admeasuring Ac.20-00 gts in Sy.Nos.157 and 158 of Narsingi Village. When there was an interference with the above property by Haji Syed Ahmed Abdullah, the petitioners have filed O.S.No.248 of 1980, which was ended in compromise on 14.11.1983. In view of the said compromise, all the parties agreed to sell the property to the petitioners and accordingly, a compromise was prepared by virtue of compromise recorded in I.A.No.467 of 1983. The petitioners

were given vacant physical possession of the property. The petitioners got their names mutated in the revenue records from 1983.

3. The petitioners have further stated that during 1992, some of the legal heirs of the original vendors approached the petitioners and demanded more money, thereby the petitioners paid Rs.10,00,000/- towards total sale consideration and obtained another agreement dated 28-09-1992 from all the 22 legal heirs of original vendors. They have also executed an irrevocable power of attorney in favour of the petitioner No.2. On the basis of said GPA, the petitioners have sold an extent of Ac.9-20 gts to third parties during 1995-2000 and they are left with the remaining land i.e., Ac.10-05 gts.

4. The petitioners have further stated that they questioned the proceedings of Urban Land Ceiling Authorities for surrender of surplus land and succeeded in W.P.Nos.19512 of 2008 and 21914 of 2008 against which Writ Appeals are pending. When some of the legal heirs of the original owners made an attempt to encroach the property, the petitioners have filed W.P.No.15224 of 2011 and obtained permission to construct a compound wall after obtaining necessary permission from the Gram Panchayat. Subsequently, their Writ Petition was allowed on 29-12-2017.

However, the vendors of the petition did not come forward to execute and register the sale deeds in respect of the remaining extent. The petitioners have filed O.S.No.191 of 2020 before Principal Senior Civil Judge, Ranga Reddy District. They have filed a petition vide I.A.No.216 of 2020 for ad-interim injunction to restrain the respondents therein from interfering with the possession and enjoyment of the petitioners.

5. The trial Court ordered notice to the respondents, did not decide the matter on merits even after one year. The petitioners have filed C.R.P.No.890 of 2021, they filed a petition vide I.A.No.2 of 2021 and this Court granted injunction in their favour.

6. The petitioners further stated that inspite of an injunction that was granted by this Court, the respondents entered into the suit schedule property on 20-05-2022, stopped the workers of the petitioners from cleaning the site and threatened them with dire consequences. They have stopped the JCB machine and destroyed the CCTV cameras apart from physically attacked the watchman causing injuries to him. When the workman tried to obtain photographs, they also destroyed his cell phone and abused him in filthy language. Therefore, the

petitioners prayed for punishing the respondents for the above contempt.

7. Heard.

8. The respondents placed reliance on Judgment between **"Nazma Begum vs. Ramjash @ Kiranu and Another"**¹, on the file of High Court of Allahabad and another Judgment between **"Dalip Singh vs. Ram Nath and Another"**², for the proposition that "when a contempt is alleged, violation of order under 39 Rules 1 and 2 C.P.C., the remedy available to the applicant is under Order 39 Rule 2A C.P.C. and no action can be taken under the Contempt of Court". As per the averments made in the affidavit filed in support of the petition and as per the arguments advanced for the petitioners, it is the specific case of the petitioners that they have filed a suit for specific performance and they sought for ad-interim injunction to restrain the respondents from interfering with their possession on the schedule property. According to the petitioner's further case, the learned Principle Senior Civil Judge, Ranga Reddy did not pass any orders in the interlocutory application filed by the petitioners for temporary Injunction. Therefore, they approached this Court by way of Civil Revision

¹ Contempt Application (Civil) No.169/2020

² 2003 Cri LJ 2984

Petition and moved an application for injunction. A copy of the order in I.A.No.2 of 2021 in the said C.R.P. was filed along with the revision. According to the said order, this Court granted interim injunction in favour of the petitioners restraining the respondents from interfering with the possession and enjoyment of the petitioners on the schedule property. The petitioners have claimed that inspite of the said order in their favour, the respondents Interfered with the possession, destroyed the CCTV cameras and other machines apart from assaulting the watchman, thereby the petitioners sought for action under the Contempt of Courts Act against the respondents.

9. In the above referred Judgments, there is a clear finding that if any contempt is alleged against a person for violating the injunction orders granted under Order 39 Rules 1 and 2 C.P.C., the same can be questioned before the same Court under Order 39 rule 2-A C.P.C. While dismissing the request, in the above Judgment, the Allahabad High Court made the following observation :

"An application under Section 12 of Contempt of Courts Act, 1971, released violation of temporary injunction granted by the trial Court is not liable to be entertained under the contempt jurisdiction. The remedy for the applicant is to approach the appellate Court under Order 39 Rule 2-A C.P.C."

10. In another Judgments between **Food Corporation of India vs. Sukh Deo Prasad**³, and "**Kanwar Singh Saini vs High Court of Delhi**"⁴, it was held that :

"The power exercised by a Court under Order 39 Rule 2-A of the CPC is punitive in nature, akin to the power to punish for civil contempt under the Contempt of Courts Act, 1971 and such powers are to be exercised with Court caution and responsibility and in case a final order, the decree lies in execution and not in an action of contempt or disobedience and in case of breach of temporary injunction, the remedy is available under Order 39 rule 2-A C.P.C."

11. It is observed in the above referred Judgment that contempt of Court is essentially a matter which concerns the administration of justice, dignity and authority of Courts and Judicial Tribunals. It is not a right of the party to be invoked for his redress of his grievance. It is also not a mode by which the rights of a party adjudicated by the Court or Tribunal can be enforced against another party. Moreover, if the matter requires a detail enquiry, it must be left with Court which passed the order which presumably is fully acquainted with the subject matter of its own order.

12. In the another Judgment between "**Dalip Singh vs. Ram Nath and Anr.**"⁵ the High Court of Himachal Pradesh made an observation that :

³ 2009 (3) SCC 2330

⁴ 2012 (4) SCC 307

"The petitioner who had the alternative remedy under Rule 2-A Order 39 C.P.C. failed to avail such remedy and no proceedings are forthcoming as to why did not avail such alternate remedy. The discretion powers under Contempt of Courts Act is not called for".

13. From the above Judgments, it is clear that when the petitioners have got an alternate remedy, under Order 39 rule 2-A C.P.C., they cannot invoke the powers of High Court under Section 12 of Contempt of Courts Act. The petitioners did not explain why they choose the present mode rather than to apply under Order 39 Rule 2-A C.P.C. Therefore, there are no grounds to proceed against the respondents and the contempt case is liable to be closed.

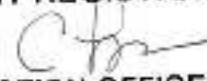
14. In the result, the Contempt Case is dismissed.

Consequently, Miscellaneous applications if any, are closed.

There shall be no order as to costs.

⁶
2003 Cri LI 2984

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Sd/-K. SRINIVAS RAO,
JOINT REGISTRAR

SECTION OFFICER

To,

1. The Principal Senior Civil Judge, Ranga Reddy District at L.B.Nagar.
 2. One CC to SRI. P BALAJI VARMA Advocate [OPUC]
 3. One CC to SRI. GOURAVULU ANIL KUMAR, Advocate [OPUC]
 4. Two CD Copies
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HIGH COURT

SSRNJ

DATED:07/12/2022

ORDER

CC.No.1117 of 2022



DISMISSING THE CONTEMPT CASE

⑥ VISV
24/12/22