

COCN-2433-2021 (O&M)

Date of Decision :28.03.2022

Jyoti Tiwari

...Petitioner

Versus

A K Singh and Ors

... Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Sandeep Sharma, Advocate for the petitioner.

B.S. Walia, J. (Oral)

[1] Prayer in the petition is for initiating action against the respondents for intentional and wilful defiance of order, Annexure P/1 dated 16.09.2013 in CWP No.5492 of 2012.

[2] A perusal of order, Annexure P/1 dated 16.09.2013 reveals that CWP No.5492 of 2012 was disposed of in terms of order dated 31.07.2013 in CWP No.9352 of 2012 in case titled as Lok Ram and Ors. vs. State of Haryana and Ors.

[3] Learned counsel contends that as per judgment and order dated 31.07.2013 in CWP No. 9352 of 2012, petitioners, whose land had been acquired, were allowed to apply for allotment of alternative plots as per Govt. Policy within two weeks from the date of receipt of certified copy of the order in CWP No.9352 of 2012 while the respondents were directed to process the application of the petitioners and take a final decision for allotment of plots along with actual possession within six months from the

date of submission of applications by the petitioner(s). Relevant extract of the said decision is reproduced as under:-

“(9) Keeping these factors in view and with the consent of counsel for the parties, we dispose of these writ petitions in the following terms:-

- i. The petitioners may apply for allotment of alternative plots as per the government policy within two weeks from the date of receipt of a certified copy of this order;*
- ii Their applications shall be processed and a final decision for allotment of plots along with actual possession, shall be taken within six months from the date of submission of applications by the petitioner(s);”*

[4] Learned counsel contends that the petitioner submitted an application for allotment of alternative plot on 09.10.2013 i.e. within two weeks from the date of receipt of certified copy of the order in CWP No.5492 of 2012, but no decision has been taken on the same by the respondents, till date, therefore, the respondents are liable to be proceeded against under the Contempt of Courts Act, 1971.

[5] On query with regard to maintainability of the instant petition in view of Section 20 of the Contempt of Courts Act, 1971 on account of order violation of which has been complained of i.e. in CWP No.5492 of 2012 being of 16.09.2013, learned counsel contends that the petitioner had submitted an application for allotment of alternative plot as per Govt. Policy within the period of time stipulated in CWP No.9352 of 2012 and it is the respondents who have not taken a decision on the application till date, whereas in the case of other similarly situated applicants, the respondents

vide letter, Annexure P/9 dated 09.06.2018 allotted alternative plots on processing the application submitted by them. A perusal of Annexure P/9 reveals that final terms of settlement in NPR (i.e. Northern Periphery Road) matters was agreed in this Court between the petitioners and the State of Haryana in CWP Nos.8060, 8227, 8697, 8771, 12079 & 16712 of 2008, CWP Nos.12211 & 16568 of 2009, CWP No.9130, 24580 & 26544 of 2014 and CWP Nos.3144 & 3355 of 2015, pursuant to which approval was received from the Chief Administrator, HSVP, Panchkula vide letter No.113855-56 dated 05.06.2018 for allotment of a residential plot as detailed in Annexure P/9 on freehold basis on the terms and conditions contained in said letter.

[6] Learned counsel for the petitioner frankly concedes that the petitioner is not a signatory to the final terms of agreement as have been referred to above and which were arrived at between the petitioners in the CWPs referred to above and State of Haryana.

[7] Section 20 of the Contempt of Courts Act, 1971 reads as under:-

“20. Limitation for actions for contempt.—No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

[8] A perusal of Section 20 *ibid* reveals that no Court is authorized to initiate proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. Orders, Annexure P/1 in CWP No.5492 of 2012 are dated 16.09.2013 and the aforesaid writ petition was disposed of

in terms of decision dated 31.07.2013 in CWP No.9352 of 2012, wherein liberty had been granted to the petitioners therein to submit applications for allotment of alternative plots as per Govt. Policy within two weeks from the date of receipt of certified copy of the order while the respondents were directed to process the applications and take a final decision for allotment of plots along with actual possession within six months from the date of submission of applications by the petitioners.

[9] Admittedly, the petitioner submitted application for allotment of alternative plot as per decision in CWP No.5492 of 2012 on 09.10.2013. However, no decision was taken on the application for allotment of plot within six months from the date of submission of application by the petitioner. The said period expired sometime in April, 2014 whereas the instant petition has been filed on 01.11.2021 i.e. after more than 7½ years.

[10] Learned counsel appearing for the respondents relies upon the decision of this Court in **Harbans Singh and Ors. vs. R.K. Millu, Law Finder Doc ID # 127547** as per which, for wilful disobedience of the order of the Court having taken place more than a year back, the contempt petition was dismissed in view of Section 20 of the Contempt of Courts Act, 1971.

[11] Faced with the aforementioned position, learned counsel for the petitioner contends that this Court is empowered under Article 215 of the Constitution of India to suo motu initiate proceedings for contempt of orders of this Court dated 16.09.2013 (Annexure P/1) in CWP No.5492 of 2012. The matter is no longer *res integra* and stands decided by Hon'ble the Supreme Court in **Maheshwar Peri and Ors. vs. High Court of Judicature at Allahabd Through Registrar General, 2016 (3) RCR**

was dealing with the question as to what was the period of limitation for suo motu initiation of contempt proceedings in the back ground of the Outlook Magazine in Edition dated 10.11.2008 having published an Article authored by the third appellant naming the Judges who had dealt with the infamous Provident Fund Scam on the basis of which on 18.11.2008, one Mr. Manoj Kumar Srivastava and Mr. Veer Singh, Advocates, practicing in the High Court of Allahabad, filed Misc. Application No.21 of 2008 with the following prayer:-

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"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to proceed for initiating Criminal Contempt proceedings on its own motion against aforesaid opposite parties and they be punished accordingly under Article 215 of the Constitution of India and or to pass any other order which this Hon'ble Court may deem fit and proper."

5. According to them, the article "has caused great insult to the Higher Judiciary. The remarks are derogatory and have lowered the authority of the Higher Judiciary." Learned Counsel appearing for the respondent/High Court of Allahabad submits that the petition was placed before a Single Judge of the High Court, and thereafter, before the Chief Justice. It appears, for about four years, nothing happened in the matter until it was listed before the Division Bench of the High Court leading to the impugned order dated 28.04.2015. It was held in the impugned order that:

"... The publication dated 10.11.2008 at page 56, 57, 58, 59 as mentioned above has caused great insult to the higher Judiciary. The remarks are derogatory and lower

the authority of the higher Judiciary. Hence, it is a fit case to take 'suo motu' action by this Court. Accordingly, we take 'suo motu' action. Hence the name of the petitioner is not to be shown in the cause list."

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"Let a notice be issued to contemnor opposite party no. 2,3,4, namely, Mr. Maheshwer Peri, Mr. Bishwadeep Moitra, Sushri Chandrani Benerji through Chief Judicial Magistrate Ghaziabad to show cause why the charges be not framed against them for committing contempt of this Court and to punish them in accordance with law. They shall also appear in person on the next date."

[12] Aggrieved against the issuance of notice, the alleged contemnors invoked the jurisdiction of Hon'ble the Supreme Court. Before Hon'ble the Supreme Court, argument advanced by counsel for the appellants was that the High Court having initiated action only after four years of the alleged contempt, the whole proceedings were barred by Section 20 of the Contempt of Courts Act, 1971 which had prescribed period of limitation of one year for initiating any proceedings of contempt, be it suo motu or otherwise whereas on behalf of the High Court, submission was that being an action initiated by the High Court under Article 215 of the Constitution of India and the genesis of the initiation of the contempt being application dated 18.11.2008 filed by Mr. Manoj Kumar Srivastava and Mr. Veer Singh, Advocates and the High Court had considered the application within one year and had taken action by issuing notice though after six years, it was within time. Hon'ble the Supreme Court took into account paragraph No.44 of its decision in **Pallav Sheth vs. Custodian and others**,

2001(3) RCR (Criminal) 781 : (2001) 7 SCC 549 case. Relevant extract of the same is reproduced as under:-

"44. Action for contempt is divisible into two categories, namely, that initiated suo motu by the court and that instituted otherwise than on the court's own motion. The mode of initiation in each case would necessarily be different. While in the case of suo motu proceedings, it is the court itself which must initiate by issuing a notice, in the other cases initiation can only be by a party filing an application. In our opinion, therefore, the proper construction to be placed on Section 20 must be that action must be initiated, either by filing of an application or by the court issuing notice suo motu, within a period of one year from the date on which the contempt is alleged to have been committed."

[13] In the aforementioned background, Hon'ble the Supreme Court held that the impugned article having been published on 10.11.2008 and the High Court having initiated suomotu action only on 28.04.2015, the same was hit by limitation of one year prescribed under the Contempt of Court Act. Accordingly, the appeal was allowed and the impugned order was set aside.

[14] A perusal of the aforementioned decision of Hon'ble the Supreme Court reveals that an action is to be initiated either by filing of an application or by the Court issuing suo motu notice within one year from the date on which the contempt is alleged to have been committed.

[15] In the instant case, the cause of action can at best be said to have accrued in April 2014 on account of non-compliance of

judgment/orders dated 16.09.2013 in CWP No.5494 of 2012, whereas the instant petition has been filed on 01.11.2021 i.e. after more than 7½ years.

[16] In the circumstances, the petition for initiating action against the respondent under Section 12 of the Contempt of Courts Act, 1971/Article 215 of the Constitution of India, is not maintainable and is accordingly dismissed in limine. No order as to costs.

(B.S. Walia)
Judge

28.03.2022
'Amit'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>