HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Writ Contempt No. 1145/2022

1. Parasmal S/o Shri Poonam Chand, Aged About 50 Years, Resident Of Village Pal, Tehsil And District Jodhpur
2. Heera Lal S/o Shri Champa Lal, Aged About 57 Years, Resident Of Village Pal, Tehsil And District Jodhpur
3. Jagdish S/o Shri Madan Lal, Aged About 57 Years, Resident Of Village Pal, Tehsil And District Jodhpur
4. Gottam Chand S/o Shri Kistoor Mal, Aged About 63 Years, Resident Of Village Pal, Tehsil And District Jodhpur

----Petitioners

Versus

1. Meema Devi W/o Lt. Shri Gopa Ram, R/o
2. Shri Kishna Ram S/o Shri Gopa Ram, R/o
3. Shri Sumera Ram S/o Shri Gopa Ram, R/o
4. The State Of Rajasthan, Through The Tehsildar, Jodhpur
5. Rakesh Choudhary, At Present Patwari, Village Pal, Jodhpur.
6. Jitendra S/o Khanga Ram, R/o Bheel Basti, Devandi Road, Siwana, Barmer

----Respondents

For Petitioner(s)	:	Mr. O.P. Mehta, through V.C. Mr. Muktesh Maheshwari, Mr. V.D. Gaur.
For Respondent(s)	:	Mr. Sharad Kothari. Mr. Ravinder Jhala for Mr. S.S. Ladrecha, AAG.

HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA

HON'BLE MR. JUSTICE PRAMIL KUMAR MATHUR

Order

27/01/2025

This contempt petition alleges wilful disobedience of the order dated 10.01.2013 passed by the Division Bench of this Court in D.B. Special Appeal (Writ) No.885/2012.

2. The petitioners allege that even though this Court passed interim order to the effect that until further orders status quo with

regard to the land involved and in occupation of the petitioners as on the date in all respects is to be maintained, the respondents No.1 to 3 not only proceeded to enter into agreement to sell the property in dispute to respondent No.6, Jitendra by executing an agreement dated 28.01.2022 but one of them Sumera Ram also submitted an application on 21.09.2022 before the Tehsildar for mutation of his name, which was clearly an act of disturbing the status quo.

3. Learned counsel for the respondents-contemnor No.1 to 3 on the other hand would submit that they have not committed any contempt. It is submitted that this Court passed ex-parte interim order dated 10.01.2013 directing status quo be maintained. It is the assertion of the respondents No.1 to 3 that they are in possession of the property and this bona fide assumption and assertion of possession cannot be treated as an act of wilful disobedience. It is also submitted that the matter is still pending and the same is yet to be decided, where the respondents No.1 to 3 would satisfy the Court that the interim order, which was passed on 10.01.2013, was not justified and they are in possession. The other submission is that the so-called agreement dated 28.01.2022 does not bear the signature of respondent No.6, and therefore, it cannot be said that by executing an agreement, an attempt was made to disturb the status-quo order passed by this Court on 10.01.2013. He would submit that till date respondents have not executed any such agreement in favour of respondent No.6 or anyone else. It is also submitted that application for mutation before the Tehsildar was preferred by Sumera Ram on 21.09.202 with bona fide assertion that he remains in possession

of the property, and therefore, he is entitled to get his name mutated though it is a different matter that the mutation was not ordered.

4. After going through the contempt petition and the documents and so also the reply, we find that on 10.01.2013, this Court passed the interim order to the following effect:

> Heard Mr. Singhvi, learned Senior counsel appearing for the appellants.
>
> Issue notice in the appeal as well as the prayer for interim relief, returnable within three weeks.
>
> Until further orders, status quo with regard to the land involved and in occupation of the petitioners as on date in all respects is to be maintained.

5. The order is quite clear. It says that the status quo with regard to land involved and in occupation of the petitioners as on the date in all respects is to be maintained. The spirit of the order was that the Court at that stage treated the land to be land involved in dispute to be in occupation of the appellants and status quo was directed to be maintained. This order not only bound the appellants but also other respondents in the case.

6. True it is that it was an ex parte interim order, but the records of D.B. Civil Special Appeal No. 885/2012 would indicate that the respondents particularly contemnors namely Meema Devi, Krishna Ram and Sumera Ram had started appearing in the case and the case was pending consideration. It is clear that each of them was in full notice and knowledge of the interim order dated 10.01.2013. The spirit of the order was that none of the parties shall disturb the status quo and maintain the same. The order

requires the parties not to do anything with the land much less any attempt to alter the records or create third party interest.

7. The petitioners have placed on record the documents which is purported to be an agreement dated 28.01.2022. A perusal of the document shows that it bears signature of Meema Devi, Krishna Ram and Sumera Ram but the document does not bear the signature of the intending purchaser namely Jitendra (respondent no. 6). In the reply, which has been filed by respondents no. 1 to 3, it is not disputed on the plea that the document was not prepared by respondents no. 1 to 3 or that it does not bear their signatures. An evasive reply has been given that it was not executed or concluded and that it does not bear the signature of Jitendra.

8. Taking into consideration the averments which have been made in the contempt petition as also in the reply, it can be inferred that the respondents no. 1 to 3 got this agreement drafted and prepared and have also put their signatures on the agreement, however, for the reasons best known to them, the same could not be executed.

9. We also find that Sumera Ram filed an application on 21.09.2022 before the Tehsildar seeking mutation of his name in respect of the property which was subject matter of dispute before this Court and in the spirit of which the status quo was to be maintained.

10. The contents of the agreement drafted and the applications made to various authorities seeking mutation also create a false impression as if the property is free from any dispute or encumbrances, whereas on the date when the draft of the

agreement was prepared and signed by the three contemnors and the application was submitted before the Tehsildar seeking mutation, they were in full notice and knowledge that the appeal is pending and the status quo order has been passed.

11. Learned counsel for the respondents cited before us certain judgments to submit that the word ‘status quo’ does not mean that the land was in possession of the appellant. All the judgments which have been cited before us are distinguishable on facts. In the present case, an interim order passed on 10.01.2013 clearly records that the status quo with regard to land involved and in occupation of the petitioners as on the date shall be maintained. Therefore, the interim order not only records the land involved to be in occupation of the appellant but also directs status quo to be maintained. What was open for the respondents was to seek vacation of the interim order by asserting that they are in possession rather than giving impression to all that the property is in their possession and it is free from any encumbrances.

12. We, however, find that the draft of the agreement dated 28.01.2022 though signed by the contemnors does not bear the signature of respondent no. 6 Jitendra. That only leads to an inference that though the agreement was prepared but for one reason or the other, it could not be executed and, therefore, no right was created in favour of any third party. Had it been executed, the agreement to sell the property, certainly, a right enforceable under the law seeking specific performance of contract could have been created in favour of the third party. At the same time, it is clear that the respondents Meema Devi, Krishna Ram and Sumera Ram left no stone unturned to ensure that the

property is disposed off or third party interest is created, though it was not permissible, being against the interim order.

13. The application for mutation followed by report from the Patwari pales into insignificance because on complaint made by the petitioners, the Sub Divisional Magistrate got inquiry made and the Patwari's report was found to be wrong and the same was set aside.

14. At the end, we find that the respondents No.1 to 3 made all attempt to disturb the status quo though they could not succeed in the same for one reason or the other.

15. Taking into consideration above, we come to the conclusion and record a finding that the respondents No.1 to 3 made all attempts to disturb the status quo and are therefore guilty of committing disobedience of the order passed by this Court. The mitigating circumstances, however, are that neither third party interest could be created nor the mutation was ordered by Tehsildar. Therefore, in these circumstances, though we hold the respondents No.1 to 3 to be guilty of contempt of court, instead of imposing jail sentence, we are inclined to impose fine of Rs.2,000/- payable by each of them within a period of one month before the Registry of this Court.

16. The contempt petition is disposed off with a clear warning to the respondents No.1 to 3 that any attempt made in future to disturb the status quo will be viewed more strictly and if it is found that the order is being violated, this Court may proceed to impose jail sentence.

17. As far as respondents No.5 and 6 are concerned, there is nothing on record to show that at the time when the Patwari

prepared the report, he was apprised of the fact that there is an interim order of the status quo operating in the case and any attempt would amount to disturbing the status quo. Similarly, there is nothing on record to show that Jitendra had entered into an agreement to sell, having full notice and knowledge of the interim order.

18. Curiously enough, the affidavit filed from the side of the petitioners show that Jitendra passed on certain consideration in favour of Meema Devi, Krishna Ram and Sumera Ram. We are not entering into that aspect at this stage.

19. In the result, the contempt petition is accordingly disposed off.

(PRAMIL KUMAR MATHUR),J **(MANINDRA MOHAN SHRIVASTAVA),CJ**

43-a.asopa/-