

HIGH COURT FOR THE STATE OF TELANGANA

CONTEMPT CASE NO.246 OF 2024

Between :

Mohammed Nayeem,

...Petitioner/
appellant in
CCCA No.253 of 2017

and

Smt. Naveditha Manvikar

.... Respondent/
respondent in
CCCA No.253 of 2017

DATE OF JUDGMENT PRONOUNCED : 29.04.2024

HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

1. Whether Reporters of local Newspapers : Yes
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : **Yes**
marked to Law Reporters/Journals
3. Whether his Lordship wish to : Yes
see the fair copy of the Judgment ?

***HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

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!Counsel for the Petitioner : Sri B.Rajeshwar Rao

Counsel for the Respondent : Sri T.S.Praveen Kumar

<Gist :

>Head Note:

? Cases referred:

(1999) 7 SCC 569; MANU/DE/2920/2023; 2015 SCC Online Mad 14155

HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

CONTEMPT CASE NO.246 OF 2024

ORDER:

This contempt case has been filed alleging that order of the Court dated 23.11.2017 in CCCA MP No.722 of 2017 in CCCA No.253 of 2017 is violated by the respondent.

2. The operative portion of the order dated 23.11.2017 reads as under:

".. A perusal of the record reveals that the petitioner herein filed I.A.No.232 of 2010 in O.S.no.31 of 2020 before the Court below to direct the respondent herein not to alienate the suit schedule property. There is an interim order in favour of the petitioner during the pendency of the suit.

Having regard to the facts and circumstances of the case, the respondent is directed not to alienate the suit schedule property pending disposal of the appeal."

3. Heard Sri B.Rajeshwar Rao, learned counsel for petitioner and Sri T.S.Praveen Kumar learned counsel for respondent.

4. According to the learned counsel for the petitioner, in violation of the directions of the Court, the respondent in trying to alienate the subject property along with the neighbour's shop by showing the same to the third parties; that when the

petitioner resisted the illegal action of the respondent and also brought to the notice of the respondent and her men that the interim order dated 23.11.2017 is existing, the respondent did not hear the contention of petitioner and threatened the petitioner with dire consequences and warned that she will sell the subject property to third parties, which amounts to violation of the orders of the Court.

5. According to the learned counsel appearing for the respondent, the petitioner is a tenant of the respondent and entered into lease deed dated 01.03.2001 in respect of subject premises; that subsequently, the petitioner, by creating forged and fabricated agreement of sale, started illegally claiming the subject premises and filed a suit vide O.S.No.31 of 2010 on the file of X Addl.Chief Judge, City Civil Court, Hyderabad, for specific performance of Agreement of sale and the said suit was dismissed vide judgment and decree dated 03.10.2017. Aggrieved by dismissal, the petitioner filed CCCA No.253 of 2017 before this Court and this Court passed interim direction not to alienate the suit schedule property.

6. Learned counsel for respondent further submitted that on account of interim order granted by this Court, the petitioner is trying to deal with the property with the neighbour shop owners and was trying to induct them into possession of the subject premises; on knowing the said fact, respondent issued legal notice dated 11.01.2024 through her counsel stating that petitioner has no right or authority to induct anybody in the subject premises or create any third party interest over the subject premises. The learned counsel for respondent submitted that the respondent never violated the orders of this Court; that mere issuing of legal notice does not amount to violation of court order.

7. The learned counsel for the respondent further submitted that the petitioner, who claims breach of Court's order must allege deliberate or contumacious disobedience of the Court's order and there must be a clear violation of Court's order in the form of wilful disobedience even by negligence or carelessness; that in the present case, there is no such wilful disobedience on

the part of the respondent and prayed to dismiss the contempt case with exemplary costs.

8. In support of the contention, learned counsel for respondent placed reliance on the following decisions:

i) Kapildeo Prasad Sah and others vs. State of Bihar and others¹; and

ii) Asha Gupta vs. Sandeep Gupta and others²

9. Perusal of the averments in the affidavit and the material placed on record, would show that this Court vide interim order dated 23.11.2017 in CCCA MP No.722 of 2017 in CCCA No.253 of 2017, directed the respondent '*not to alienate the suit schedule property pending disposal of the suit.*'

10. It is pertinent to note that the suit filed by the petitioner was dismissed by the trial Court vide order dated 03.10.2017, against which, the petitioner preferred appeal vide CCCA No.253 of 2017 and this Court granted above interim order.

11. In **Kapildeo Prasad Sah** (supra), the Hon'ble Supreme Court held as under:

¹ (1999) 7 SCC 569

² MANU/DE/2920/2023

“9. For holding the respondents to have committed contempt, civil contempt at that, it has to be shown that there has been willful disobedience of the judgment or order of the court. Power to punish for contempt is to be resorted to when there is clear violation of the court's order. Since notice of contempt and punishment for contempt is of far-reaching consequence, these powers should be invoked only when a clear case of wilful disobedience of the court's order has been made out. Whether disobedience is wilful in a particular case depends on the facts and circumstances of that case. Judicial orders are to be properly understood and complied with. Even negligence and carelessness can amount to disobedience particularly when the attention of the person is drawn to the court's orders and its implications. Disobedience of the court's order strikes at the very root of the rule of law on which our system of governance is based. Power to punish for contempt is necessary for the maintenance of effective legal system. It is exercised to prevent perversion of the course of justice.

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11. No person can defy the court's order. Willful would exclude casual, accidental, bona fide or unintentional acts or genuine inability to comply with the terms of the order. A petitioner who complains breach of the court's order must allege deliberate or contumacious disobedience of the court's order.”

12. In **Asha Gupta** (supra), the Hon'ble High Court of Delhi, while referring the decision in **Kapildeo Prasad Sah** (supra), held that *“a mere averment or a bald statement is not sufficient to initiate contempt proceedings or issue a show-cause notice against a person. The disobedience must be wilful and must be beyond a casual or accidental/genuine inability to comply with the terms of the order. Moreover, mere unintentional disobedience is not enough, an absence of*

wilful disobedience on the part of the contemnor, will not hold him guilty unless the contempt involves a degree of fault of misconduct.”

13. In **N.Ramadas Inspector of Police, District Crime Branch, Kancheepuram Range, Collector’s Office, Kancheepuram vs. Dr. .A.Mohamed Abdul Huq and another**³, the Division Bench of Hon’ble High Court of Madras held as under:

“9. Proceeding with a contempt is a business between the Court and the contemnor. A person who initiates a contempt proceeding cannot have a bigger role than that of an informer with respect to a criminal contempt. When a person alleges wilful disobedience of an order passed by another, the onus is wholly on him to substantiate it. The proceedings are like in a criminal case which is inclusive of the standard of proof required. They are quasi criminal nature. The power of the Court, which exercises its contempt jurisdiction, is a special and rare one. Therefore, it has to be exercised with circumspection caution and care. There has to be sufficient evidence leading to a finding on the wilfulness relatable to the contemnor. When there are two views possible on the alleged action or inaction of the contemnor, then the benefit of doubt will have to be extended to him. These are the underlining principles governing contempt proceedings before a Court of law. A mere surmise or conjuncture can never be a basis to haul a person for contempt. An inadvertence mistake or misunderstanding of an order of Court would not lead to contempt.

10. While dealing with the contempt petitions, the Court is not supposed to go into the various nitti-gritty of the steps taken by the contemnor. The Courts are not required to travel beyond the four corners of the order, which is alleged to have been clotton deliberately and wilfully. In this connection, a fruitful recapitulation of a recent judgment of the Supreme

³ 2015 SCC Online Mad 14155

Court in *Ram Kishan v. Sh. Tarun Bajaj* [(2014) 3 LW 103 : (2014) 6 CTC 236] is apposite.

“9. Contempt jurisdiction conferred onto the law courts power to punish an offender for his wilful disobedience/contumacious conduct or obstruction to the majesty of law, for the reason that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizens that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but mat by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi-criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. It would rather be hazardous to impose sentence for contempt on the authorities in exercise of contempt jurisdiction on mere probabilities. (Vide : *V.G. Nigam v. Kedar Nath Gupta*, AIR 1992 SC 2153; *Chhotu Ram v. Urvashi Gulati*, AIR 2001 SC 3468; *Anil Ratan Sarkar v. Hirak Ghosh*, AIR 2002 SC 1405; *Bank of Baroda v. Sadruddin Hasan Daya*, AIR 2004 SC 942; *Sahdeo alias Sahdeo Singh v. State of U.P.*, (2010) 3 SCC 705; and *National Fertilizers Ltd. v. Tuncay Alankus*, AIR 2013 SC 1299).

10. Thus, in order to punish a contemnor, it has to be established that disobedience of the order is wilful. The word wilful introduces a mental element and hence, requires looking into the mind of person/contemnor by gauging his actions, which is an indication of one's state of mind. Wilful means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It excludes casual, accidental, bonafide or unintentional acts or genuine inability. Wilful acts does not encompass involuntarily or negligent actions. The act has to be done with a bad purpose or without justifiable excuse or stubbornly, obstinately or perversely?. Wilful act is to be distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It does not include any act done negligently or involuntarily. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. Therefore, there has to be a calculated action with evil motive on his part. Even if there is a disobedience of an order, but such disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the contemnor cannot be punished. “Committal or sequestration” will not be ordered

unless contempt involves a degree of default or misconduct. (Vide : *S. Sundaram Pillai, etc. v. V.R. Pattabiraman*; (1985) 98. W. 49 : AIR 1985 SC 582; *Rakapalli Raja Rama Gopala Rao v. Naragani Govinda Sehararao*, (1990) 1 LW 558 : AIR 1989 SC 2185; *Niaz Mohammad etc. etc. v. State of Haryana*, AIR 1995 SC 308; *Chordia Automobiles v. S. Moosa*, (2001) 1 LW 737 : AIR 2000 SC 1880; *Ashok Paper Kamgar Union v. Dharam Godha*, AIR 2004 SC 105; *State of Orissa v. Md. Illiyas*, AIR 2006 SC 258; and *Unizworth Textiles Ltd. v. CCE, Raipur*, (2013) 9 SCC 753).

11. In *Lt. Col. K.D. Gupta v. Union of India*, AIR 1989 SC 2071, this Court dealt with a case wherein direction was issued to the Union of India to pay the amount of Rs. 4 lakhs to the applicant therein and release him from defence service. The said amount was paid to the applicant after deducting the income tax payable on the said amount. While dealing with the contempt application, this Court held that withholding the amount cannot be held to be either malafide or was there any scope to impute that the respondents intended to violate the direction of this Court.?

12. In *Mrityunjoy Das v. Sayed Hasibur Rahaman*, AIR 2001 SC 1293, the Court while dealing with the issue whether a doubt persisted as to the applicability of the order of this Court to complainants held that it would not give rise to a contempt petition. The court was dealing with a case wherein the statutory authorities had come to the conclusion that the order of this court was not applicable to the said complainants while dealing with the case under the provision of West Bengal Land Reforms Act, 1955.

13. It is well settled principle of law that if two interpretations are possible, and if the action is not contumacious, a contempt proceeding would not be maintainable. The effect and purport of the order is to be taken into consideration and the same must be read in its entirety. Therefore, the element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act. (See : *Sushila Raje Holkar v. Anil Kak (Retd.)*, AIR 2008 Supp (2) SC 1837; and *Three Cheers Entertainment Pvt. Ltd. v. C.E.S.C. Ltd.*, AIR 2009 SC 735)."

14. Perusal of the above legal position would show that the disobedience must be wilful and must be beyond a casual or accidental/genuine inability to comply with the terms of the

order and that mere allegation or a bald statement is not sufficient to initiate contempt proceedings. It is also settled principle that power to punish for contempt is to be resorted to when there is clear violation of the court's order. Since notice of contempt and punishment for contempt is of far-reaching consequence, these powers should be invoked only when a clear case of wilful disobedience of the court's order has been made out. The proceedings are quasi-criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. The power of the Court, which exercises its contempt jurisdiction, is a special and rare one. Therefore, it has to be exercised with circumspection caution and care.

15. To initiate contempt proceedings against the contemnor, there must be a wilful, deliberate and intentional disobeying of the order of the Court. In the case on hand, except making bald allegations against the respondent that he violated the orders of this Court dated 23.11.2017, the petitioner has not placed single piece of evidence that the respondent violated the interim order and alienated the subject property. Therefore, no cause of action

has arisen for initiating contempt proceedings against the respondent.

16. In view of the above facts and circumstances of the case and legal position, in considered opinion of this Court that there is absolutely no material placed before this Court to show that the respondent has violated the orders of this Court dated 23.11.2017, except making some bald allegations against the respondent without any cause of action. Thus, no contempt case is made out by the petitioner.

17. Unless there is a deliberate and wilful violation of the Court orders, contempt proceedings cannot be initiated on mere allegation. As discussed above, absolutely, no material is placed before this Court to substantiate the allegation of violation of Court order by the petitioner. Therefore, in considered opinion of this Court, initiation of contempt proceedings by the petitioner is nothing but abuse of process of law, wastage of valuable time of Court and there is deliberate attempt on the part of the petitioner to intimidate the respondent. The attempt/misadventure of this

nature of the petitioner has to be curtailed to prevent misuse of process of law and also to deter the action of this nature.

18. Accordingly, Contempt Case is dismissed with costs of Rs.25,000/- (Rupees twenty five thousand only) payable to the Secretary, High Court Legal Services Committee, Hyderabad within a period of two weeks from today. Pending miscellaneous applications if any shall stand closed.

LAXMI NARAYANA ALISHETTY

Date: 29.04.2024

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