

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CONTEMPT CASE NO.947 OF 2021

ORDER:

This contempt case is filed under Sections 10 to 12 of Contempt of Courts Act, 1971, by the petitioners, for willful disobedience of the order passed by the High Court in W.P.No.8598 of 2014 dated 21.03.2014.

The petitioners filed W.P.No.8598 of 2014 to issue writ of mandamus declaring the action of the Respondents in taking steps to dispossess the petitioners from the land in Sy.No.29/1 of Thunglam Village, Gajuwaka Mandal, Visakhapatnam District as illegal, arbitrary and it is in violation of Principles of natural justice and consequently direct the respondents not to dispossess the petitioners from the land in Sy.No.29/1 of Thunglam Village, Gajuwaka Mandal, Visakhapatnam District without following due procedure under law.

Upon hearing argument of both the counsel, the High Court issued the following direction during pendency of writ petition:

“Notice before admission returnable in four weeks.

The learned Standing Counsel appearing for Rashtriya Ispath Nigam Limited submits that the land in Survey No.29/1 is away by 10 meters from the boundary wall and this land was never acquired for the purpose of Steel Plant and there is no intention to acquire also.

There shall be interim direction to the respondents not to dispossess the petitioners from the land to an extent of Ac.5-42 cents in Survey No.29/1, situated at Thunglam Village, Gajuwaka Mandal, Visakhapatnam District.

Post after four (4) weeks.”

After the above interim order is passed in W.P.No.8598 of 2014 dated 21.03.2014, the respondents intentionally came to the petitioners land with J.C.B. Machines on 13.06.2021 at about 5.45

a.m and started demolishing the compound wall forcibly though they had knowledge that the interim order was passed on 21.03.2014. The respondents intentionally made an attempt to demolish the buildings of these petitioners and demolished part of the compound wall in violation of the orders passed by this Court. To establish demolition, the petitioners placed on record positive photographs taken at the time of demolition of compound wall and interference with possession and enjoyment, despite the direction issued by this Court. The photographs would clinchingly establish the intentional and deliberate violation of the orders passed by the High Court. The news item published in the newspaper is also placed on record to establish that the demolition of part of the building, despite the interim order of the High Court in W.P.No.8598 of 2014 dated 21.03.2014.

It is contended that, prior to demolition, during subsistence of the interim order in W.P.No.8598 of 2014 dated 21.03.2014, no notice was issued to these petitioners proposing to take action for demolition of the compound wall and no intimation was also given to these petitioners. The respondents have gone to the extent of directing the electricity authorities to disconnect the power supply to the premises and accordingly, the authorities disconnected the power supply, on 13.06.2021 without any intimation. It is contended that, Respondent Nos.6 & 7 personally supervised the demolition and in the said demolition, valuable goods stored in the premises were lost. Respondent Nos. 6 & 7 proclaimed that, it is a government property without any notice or determination by following procedure established under law in high-handed manner at the instance of land grabbers initiated the above action of

demolition in violation of the orders passed by the High Court. After demolishing the compound wall, Respondent Nos. 6 & 7 insisted the petitioners to sell the property to the persons indicated by them, which itself is sufficient to establish that the respondents intentionally at the instance of third parties demolished the compound wall of these petitioners in violation of the interim order in W.P.No.8598 of 2014 dated 21.03.2014. Thus, the respondents/contemnors violated the order of this Court intentionally and deliberately without any respect of the order of this Court and requested to take appropriate action against these respondents/contemnors.

Respondent No.4 filed counter affidavit denying material allegations, *inter alia*, contending that, the subject land in Sy.No.29/1 is not in possession of APIIC. The High Court issued interim direction not to dispossess the petitioners from the land of an extent of Ac.5-42 cents in Sy.No.29/1 situated at Thunglam Village, Gajuwaka Mandal, Visakhapatnam. While the matter stood thus, the Revenue Department along with Railway Department has demolished the unauthorized constructions in Thunglam Village and erected caution boards stating that the land is Government Land which is not belonging to APIIC and APIIC officials have not participated in the entire eviction process. It is contended that the subject land belongs to Railways/Revenue Department and further the Zonal Manager, APIIC, Regular Zone was not present in the eviction process. Hence, issue of notices to the petitioner by APIIC does not arise, as the subject land does not belong to APIIC. It is contended that the land originally belongs to Railway Department. Copy of the photographs filed along with the counter affidavit

would show the boundary stones of Railway Department and caution boards erected by the Revenue Department. Further, the petitioner has made APIIC as Respondent No.4 without any knowledge, since the land is lying adjacent to the land claimed by the petitioner. Hence, issuing prior intimation/notice to the petitioners by APIIC does not arise, as the subject land in Sy.No.29/1 does not belong to APIIC and the Revenue/Railway Department alone are competent to take action on the subject land with regard to encroachers of the land, as APIIC is not a party to the eviction process. Even otherwise, Respondent Nos. 4 & 5 ascertained that the land does not belong to APIIC, but Respondent Nos. 4 & 5 are arrayed as parties to the writ petition, though Respondent No.4 has no intention to demolish nor participated in the process of demolition and requested to close the contempt case against Respondent No.4.

Respondent No.6 – Joint Collector (RB&R), Visakhapatnam filed separate counter affidavit, denying material allegations, while admitting that he is acquainted with the facts of the case. Respondent No.6 admitted about filing of writ petition against the respondents in W.P.No.8598 of 2014 before the High Court of Andhra Pradesh against (1) Rashtriya Ispath Nigam Limited, represented by its Chairman and Managing Director, Visakhapatnam, (2) The South Eastern Railways, represented by its Divisional Manager, Dondaparthi Road, Visakhapatnam (3) The Senior Section Engineer Works, South Eastern Railways, Vadlapudi, Thugnlam Village, Gajuwaka Mandal, Visakhapatnam District (4) A.P. Industrial Infrastructure Corporation rep. by its Zonal Manager, Old Industrial Estate, Muralinagar,

Visakhapatnam (5) The Zonal Commissioner, APIIC, Auto Nagar, Gajuwaka, Visakhapatnam (6) The Special Deputy Collector, Land Acquisition, Steel Plant, Visakhapatnam (7) The Tahsildar, Gajuwaka Mandal, Visakhapatnam. The High Court passed an interim order in WPMP No.10746 of 2014 in W.P.No.8598 of 2014 on 21.03.2014 which reads as follows:

“...There shall be an interim direction to the respondents not to dispossess the petitioners from the land to an extent of Ac.5-42 cts in Sy.No.29/1 situated at Thunglam Village, Gajuwaka Mandal of Visakhapatnam District.”

Respondent No.6 further submitted that he is not a party to W.P.No.8598 of 2014 or WPMP No.10746 of 2014 dated 21.03.2014. Respondent No.6 is the Special Deputy Collector (Land Acquisition) Steel Plant, Visakhapatnam, whereas, the description of Respondent No.6 in the affidavit under reply in the contempt case is M. Venugopal Reddy, Special Deputy Collector (Land Acquisition)-cum-Revenue Divisional Officer, Steel Plant, Visakhapatnam and that he never worked in Visakhapatnam in any capacity in 2014 when the writ petition was filed. Secondly, having served as Joint Collector, West Godavari District from 10.05.2018 to 14.12.2019, Respondent No.6 came to Visakhapatnam in the rank of Joint Collector (VG) with effect from 15.12.201 and now the nomenclature of the post is Joint Collector (RB&R). Apart from the post of Joint Collector, Respondent No.6 held additional charges viz (i) Person-in-charge for District Cooperative Central Bank from 13.02.2021 to 29.07.2021 (ii) Person-in-charge for District Cooperative Marketing Society from 13.02.2021 to 29.07.2021 (iii) Person-in-charge for the Etikoppaka Cooperative Agricultural & Industrial Society Limited

(iii) V.V. Ramana Cooperative Sugars Limited, Anakapalli (v) Thandava Cooperative Sugars Limited and (vi) Person-in-charge for Cooperative Central Stores Limited (Super Bazar) Visakhapatnam. Other than the above said posts, Respondent No.6 did not hold any other post or charge, much less the post of Revenue Divisional Officer and that the post of Revenue Divisional Officer is different and distinct post. It is submitted that, as a Joint Collector, Respondent No.6 is senior to Special Deputy Collector (Land Acquisition) as well as to the post of Revenue Divisional Officer and not concerned with the process of the alleged demolition. In any view of the mater, he is not a party to the writ petition or interlocutory application.

It is contended that, on 13.06.2021, the date of occurrence of the alleged demolition which is the subject matter of the contempt case, Respondent No.6 was not concerned with the property and made false allegations against him. The allegation that, Respondent No.6 along with Respondent No.7 the petitioners to sell the property to the persons indicated by them are false and concocted and irresponsible allegations and that, on 13.06.2021 i.e. Sunday, Respondent No.6 worked in his camp office. It is contended that, Respondent No.6 has got utmost respect to the orders of this Court and never issued any order directing anyone, leading to non-compliance or violation of the interim order in W.P.No.8598 of 2014 dated 21.03.2014.

The allegation that, Respondent No.6 willfully and deliberately violated the order of this Court is without any basis. However, he tendered unconditional apology in the event of passing an order, finding Respondent No.6 guilty for contempt of

Court and finally requested to dismiss the contempt case against him.

Respondent No.7 – Tahsidlar, Gajuwaka Mandal, Visakhapatnam District, filed separate counter affidavit denying material allegations, while offering unconditional apology, as he is having highest respect to the orders of this Court. Respondent No.7 specifically contended that, Thunglam Village of erstwhile taluk of Visakhapatnam, presently in Gajuwaka Mandal was an estate Village within the ambit of Vizianagaram Zamin estate, taken over by the Government under the provisions of A.P. Estates (Abolition and Conversion into Ryotwari) Act, 1948 and Settlement rates were introduced in the village long back. The total land covered by Sy.No.29 of Tunglam village is Ac.6-72 cents comprising of two sub-divisions as 29/1 and 29/2 admeasuring Ac.5-42 cents and Ac.1-30 cents respectively. As per the settlement record, the total extent of land measuring Ac.5-42 cents stands classified as “Inam Dry” under T.D. No.2415. Out of the total extent of Ac.5-42 cents situated in Sy.No.29/1 of Thunglam Village, an extent of Ac.1-36 cents was acquired for Steel Plant vide Award No.13/81 dated 24.08.1981 by the Special Deputy Collector, Unit-II, Steel Plant, Visakhapatnam. The acquired extent of Ac.1-36 cents was denoted as Sy.No.29/1B while the balance un-acquired extent was initially handed over to Manager (Estes) Steel Plant, Visakhapatnam and later handed over to Inspector of Works (Con.) S.E. Railway, Waltair. The petitioners contend that they have purchased the land under various sale deeds commencing from 30.08.1993 and have never produced any evidence, which imply that they have no title to the subject land and are occupying the

Government property by way of encroachment only. The petitioners herein have occupied an extent of Ac.0-70 cents out of the acquired extent of Ac.1-36 cents in Sy.No.29/1B of Thunglam village by way of raising structures and erecting compound wall unauthoroizedly. The writ petition as well as the contempt case are only attempts on the part of the petitioners for arm-twisting the true owners of the land and make an unlawful gain to themselves.

While the matter stood thus, the physical verification of Government lands/acquired lands has been taken up for removal of encroachments in the month of June 2021, during the course of which, it was found that the petitioners have unauthoroizedly occupied an extent of Ac.0-70 cents out of the acquired extent of Ac.1-36 cents in Sy.No.29/1B of Thunglam village by way of raising structures and erecting compound wall. On 13.06.2021, the unauthorized structures raised by the petitioners in the said acquired land have been removed.

It is specifically contended that, out of the total land acquired admeasuring an extent of Ac.5-42 cents in Sy.No.29/1 of Thunglam Village, an extent of ac.1-36 cents was acquired by the Special Deputy Collector, Unit-II, Steel Plant, Visakhapatnam vide Award No.13/81 dated 24.08.1981. The acquired extent of Ac.1-36 cents was denoted as Sy.No.29/1BN while the balance unacquired extent of Ac.4-06 cents was denoted as Sy.No.29/1A. The acquired extent was initially handed over to Steel Plant and later transferred to S.E. Railways, as such the petitioners herein cannot claim right over the entire extent of Ac.5-42 cents in Sy.No.29/1 of Thunglam Village. While filing W.P.No.8598 of 2014, the petitioners herein have suppressed the factum of acquisition of an extent of Ac.1-36

cents in Sy.No.29/1B of Thunglam Village and obtained interim order dated 21.03.2014 by playing fraud and that he is not aware about the demolition on 13.06.2021 and the contempt case is foisted against Respondent No.6 without any basis and requested to dismiss the contempt case against Respondent No.7.

During hearing, Sri N. Subba Rao, learned counsel for the petitioners would contend that, the admission made by Respondent No.7 in various paragraphs of the counter affidavit while pleading his absence at the time of demolition is sufficient to conclude that the compound wall was demolished by the respondents in the month of June, 2021. The respondents are aware about the interim direction issued by this Court, despite it, obviously for reasons best known to them, the respondents got demolished the compound wall and caused substantial damage to the property of this petitioner which amounts to contempt, as defined under Section 2(b) of the Contempt of Courts Act and that the respondents are liable for punishment as per Section 12 of Contempt of Courts Act and requested to punish them in accordance with law.

Whereas, learned counsel for the respondents denied intentional or deliberate violation of the interim direction issued by this Court in W.P.No.8598 of 2014 dated 21.03.2014 and that Respondent No.5 specifically contended that he is unconcerned with the property of Ac.1-36 cents acquired by Rashtriya Ispat Nigam Limited and later, transferred to South Eastern Railway, which is the owner of the property, hence, APIIC is no way concerned with the property and question of interference with the possession and enjoyment of the property in violation of the orders

passed by this Court does not arise and requested this Court to dismiss the contempt case.

Whereas, Sri P. Subash, learned counsel for Respondent No.6 and Sri T.V.S. Kumar, learned counsel for Respondent No. 7 contended that, Respondent No.6 is no way concerned with the subject land and neither Respondent No.6 nor Respondent No.7 were present at the time of alleged demolition of the compound wall and causing damage to the property of these petitioners and that the intentional or deliberate violation of the order passed by the High Court does not arise. In the absence of proof, that Respondent Nos. 6 & 7 intentionally violated the order to constitute a civil contempt as defined under Section 2(d) of the Contempt of Courts Act, contention of the petitioners that Respondent Nos. 6 & 7 violated the order does not arise and requested to dismiss the contempt case.

Considering rival contentions, perusing the material available on record, the sole point that arises for consideration is:

“Whether the respondents violated the interim order of this Court in W.P.No.8598 of 2014 dated 21.03.2014 willfully and deliberately to constitute a civil contempt. If so, whether the respondents are liable for punishment under Section 12 under the Contempt of Courts Act, 1971”

P O I N T:

Before advertng to the facts of the case, I find it apposite to narrate the legal position for better appreciation of the case and application of law.

The Contempt of Court is defined under Section 2(a) as follows: "contempt of court means, civil contempt or criminal contempt", Whereas clause (b) of Section 2 defines Civil Contempt as "willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court."

The Contempt jurisdiction is not conferred on the Subordinate Courts and it is only conferred on the Court of record, in view of Article 215 of the Constitution of India. According to it, the High Court shall be a Court of record and shall have all the powers of such a Court, including the power to punish for contempt of itself. The jurisdiction of contempt is independent jurisdiction of its original nature. Therefore, this Court is competent to exercise such power to punish a person, who is guilty of contempt and this jurisdiction is enjoyed by Courts, is only for the purpose of upholding the jurisdiction of the judicial system that exists. While exercising this power, the Court must not react by the emotion, but must act judicially. Contempt proceedings are intended to ensure compliance of the orders of the Court and strict adherence of rule of law. Once, the essentials for initiation of contempt proceedings are satisfied, the Court shall initiate action, uninfluenced by the nature of direction in a *pending lis* before the Court vide judgment in ***Priya Gupta and others vs. Additional Secretary, Ministry of Health and Family Welfare and others***¹). Contempt jurisdiction enjoyed by the Courts is only for the purpose of upholding the majesty of judicial system that exists. While exercising this power, the Courts must not be hyper sensitive or swang by emotions, but must act judicially (Vide:

¹ JT 2013 (1) SC 27, 2012 (12) SCALE 289

Chairman, West Bengal Administrative Tribunal vs. SK. Monobbor Hossain²).

“Contempt” is disorderly conduct of contemnor causing serious damage to the institution of justice administration. Such conduct, with reference to its adverse effects and consequences, can be discernibly classified into two categories one which has a transient effect on the system and/or the person concerned and is likely to wither by the passage of time while the other causes permanent damage to the institution and administration of Justice (Vide: **Kalyaneshwari vs. Union of India and others³**).

Turning to the facts of the present case, this Court passed an interim order in W.P.No.8598 of 2014 dated 21.03.2014 directing the respondents not to dispossess the petitioners from the land to an extent of Ac.5-42 cents in Survey No.29/ situated at Thunglam Village, Gajuwaka Mandal, Visakhapatnam District. The communication of the order to the respondents by the Court is not denied by the respondents. The respondents in their counter affidavits raised a different contention. However, the specific plea of the Respondent No.4 is that, the land was allotted to railways which is covered by wild growth, the petitioners occupied the said land unlawfully and illegally, thereby the respondents/revenue authorities along with the railway department demolished the unauthorized construction in Thunglam Village and erected caution boards stating that “the land is Government Land” which is not related to APIIC and APIIC officials have not participated in the eviction process. Therefore, Respondent No.4 is not liable for

² (2012)3 SCALE 534

³ (2011) 6 SCALE 220

contempt of court action, as Respondent No.4 is unconcerned with the subject land in dispute.

Respondent No.6 – Joint Collector (RB&R), Visakhapatnam, though raised several contentions that Respondent No.6 is not a party to W.P.No.8598 of 2014 or WPMP No.10746 of 2014, he worked as the Special Deputy Collector, Land Acquisition, Steel Plant, Visakhapatnam. Whereas, in the cause title of the contempt case, name and designation of Respondent No.6 is described as “M. Venugopal Reddy, Special Deputy Collector (Land Acquisition)-cum-Revenue Divisional Officer, Visakhapatnam Steel Plant, Visakhapatnam and that he never worked in Visakhapatnam in any capacity in 2014 when the writ petition was filed and he was working as Joint Collector, West Godavari District from 10.05.2018 to 14.12.2019 and presently the petitioner is working as Joint Collector (RB&R). Apart from the post of Joint Collector, Respondent No.6 held additional charges viz (i) Person-in-charge for District Cooperative Central Bank from 13.02.2021 to 29.07.2021 (ii) Person-in-charge for District Cooperative Marketing Society from 13.02.2021 to 29.07.2021 (iii) Person-in-charge for the Etikoppaka Cooperative Agricultural & Industrial Society Limited (iii) V.V. Ramana Cooperative Sugars Limited, Anakapalli (v) Thandava Cooperative Sugars Limited and (vi) Person-in-charge for Cooperative Central Stores Limited (Super Bazar) Visakhapatnam.

It is contended that, Respondent No.6 was not the Joint Collector as on the date of alleged demolition of the compound wall, causing damage to the property of these petitioners. Since the incident of demolition allegedly took place on 13.06.2021, as

alleged in Paragraph No.4 of the affidavit filed along with the contempt case, as such, Respondent No.6 was not the Special Deputy Collector (Land Acquisition), as on the date of incident, thereby, he is unconcerned with the alleged violation of the order dated 21.03.2014.

As discussed above, Respondent Nos. 4, 5 & 6 are unconcerned with the alleged demolition, as it is an undisputed fact that the land does not belong to APIIC and the officials of APIIC are unconcerned. Therefore, Respondent Nos.4 & 5 have nothing to do with the alleged violation of the order dated 21.03.2016. Similarly, Respondent No.6 who was working at a different place in different capacity is also unconcerned with the alleged violation of the interim order passed by this Court in W.P.No.8598 dated 21.03.2016. Therefore, contempt proceedings against Respondent Nos.4,5 & 6 for their no fault is impermissible under law, as they did not violate the order passed by this Court, since Respondent No.6 was working at different place and Respondent Nos. 4 & 5 have nothing to do with the petitioners property, as the property was attached to railways.

Respondent No.7 – Tahsildar, Gajuwaka Mandal, Visakhapatnam District, narrated several facts about allotment of land, while admitting in Paragraph No.6 of the follows:

“While so, the physical verification of government lands/acquired lands has been taken up for removal of encroachments therein in the month of June, 2021, during the course of which it was found that the petitioners have unauthoroedly occupied an extent of Ac.0-70 cents from out of the acquired extent of Ac.1-36 cents in Sy.No.29/1B of Thunglam Village by way of raising structures and erecting compound wall. On 13.06.2021 the unauthorized structures raised by the petitioners there in the said acquired land have been removed.”

Thus, Respondent No.7 – Tahsildar admitted that, the compound wall was demolished on the pretext that these petitioners have encroached the government land. It is further contended that, out of the total extent of acquired land of Ac.5-42 cents in Sy.No.29/1 of Thunglam Village, an extent of Ac.1-36 cents was acquired by the Special Deputy Collector, Unit-II, Steel Plant, Visakhapatnam vide Award No.13/81 dated 24.08..1981. The acquired land of Ac.1-36 cents was denoted as Sy.No.29/B while the balance unacquired extent of Ac.4-06 cents was denoted as Sy.No.29/1A. The acquired extent was initially handed over to Steel Plant and later transferred to S.E. Railways. As such the petitioners cannot claim right over the extent of Ac.5-42 cents in Sy.No.29/1 of Thunglam Village. Thus, Respondent No.7 admitted in Paragraph No.6 of the counter affidavit, in clear terms about demolition of the compound wall on the pretext that the petitioners are encroachers. When once the petitioners are in possession and enjoyment of the property as encroachers, the procedure prescribed under the provisions of Andhra Pradesh Land Encroachment Act, 1905, should be followed to remove such unauthorized occupation or encroachments. Instead of following the procedure prescribed under the Andhra Pradesh Land Encroachment Act, 1905, for the reasons best known to Respondent No.7 – Tahsildar, on the pretext that the land belongs to the Government even without adhering to the procedure prescribed under the Andhra Pradesh Land Encroachment Act, 1905, despite the interim direction issued by this Court, demolished the compound wall to remove the encroachment from the government land. Such an act would clearly fall within Section 2(b) of the Contempt of Courts Act, 1971 i.e. ‘Civil Contempt’,

which means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court.

In the present facts of the case, Respondent No.7 – Tahsildar with scant respect to the order passed by this Court dated 21.03.2014, demolished the compound wall on 13.06.2021 with a view to remove the alleged encroachments. The admission made in Paragraph No.6 of the counter affidavit filed by Respondent no.7 is suffice to hold that, Respondent No.7 – Tahsildar violated or disobeyed the order of this Court willfully, knowing the ill-consequences that flow from such violation i.e. conscious violation of the order of this Court dated 21.03.2014, which amounts to violation of Rule of Law. Therefore, the act of Respondent No.7 – Tahsildar by his disorderly conduct caused serious damage to the institution of justice administration. Such conduct, with reference to its adverse effects and consequences, can be discernibly classified into two categories one which has a transient effect on the system and/or the person concerned and is likely to wither away by the passage of time while the other causes permanent damage to the institution and administration of justice. (vide ***Kalyaneshwari vs. Union of India***⁴)

When once an order is passed, it is the duty of the authorities to implement the same without giving any interpretation and if the order is contrary to law, they are at liberty file appropriate appeal before the appellate authority. But, without preferring an appeal, the respondent/contemnor cannot interpret the order and give different meaning to the order passed by the

⁴ (2011) 6 SCALE 220

Court, which is sought to be implemented, as directed by this Court and such act of the respondent/contemnor is illegal in view of the law declared by the Hon'ble Apex Court in **Commissioner, Karnataka Housing Board vs. C. Muddaiah**⁵, wherein, it is held as follows:

31. We are of the considered opinion that once a direction is issued by a competent Court, it has to be obeyed and implemented without any reservation. If an order passed by a Court of Law is not complied with or is ignored, there will be an end of Rule of Law. If a party against whom such order is made has grievance, the only remedy available to him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been issued by the Court. In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice. The argument of the Board, therefore, has no force and must be rejected.

32. The matter can be looked at from another angle also. It is true that while granting a relief in favour of a party, the Court must consider the relevant provisions of law and issue appropriate directions keeping in view such provisions. There may, however, be cases where on the facts and in the circumstances, the Court may issue necessary directions in the larger interest of justice keeping in view the principles of justice, equity and good conscience. Take a case, where ex facie injustice has been meted out to an employee. In spite of the fact that he is entitled to certain benefits, they had not been given to him. His representations have been illegally and unjustifiably turned down. He finally approaches a Court of Law. The Court is convinced that gross injustice has been done to him and he was wrongfully, unfairly and with oblique motive deprived of those benefits. The Court, in the circumstances, directs the Authority to extend all benefits which he would have obtained had he not been illegally deprived of them. Is it open to the Authorities in such case to urge that as he has not worked (but held to be illegally deprived), he would not be granted the benefits? Upholding of such plea would amount to allowing a party to take undue advantage of his own wrong. It would perpetrate injustice rather than doing justice to the person wronged. We are conscious and mindful that even in absence of statutory provision, normal rule is 'no work no pay'. In appropriate cases, however, a Court of Law may, nay must, take into account all the facts in their entirety and pass an appropriate order in consonance with law. The Court, in a given case, may hold that the person was willing to work but was illegally and unlawfully not allowed to do so. The Court may in the circumstances, direct the Authority to grant him all benefits considering 'as if he had worked'. It, therefore, cannot be contended as an absolute proposition of law that no direction of payment of consequential benefits can be granted by a Court of Law and if such directions are issued by a Court, the Authority can ignore them even if they had been finally confirmed by the Apex Court of the country (as has been done in the present case). The bald contention of the appellant-Board, therefore, has no substance and must be rejected.

⁵ (2007) 7 SCC 689

The same view is expressed by the Hon'ble Apex Court in ***Prithawi Nath Ram vs. State of Jharkhand and others***⁶, where the Court held that, while dealing with an application for contempt, the Court is really concerned with the question whether the earlier decision which has received its finality had been complied with or not. It would not be permissible for a Court to examine the correctness of the earlier decision which had not been assailed and to take the view different than what was taken in the earlier decision. If any party concerned is aggrieved by the order which in its opinion is wrong or against rules or its implementation is neither practicable nor feasible, it should always either approach to the Court that passed the order or invoke jurisdiction of the Appellate Court. Rightness or wrongness of the order cannot be urged in contempt proceedings. Right or wrong the order has to be obeyed. Flouting an order of the Court would render the party liable for contempt. While dealing with an application for contempt the Court cannot traverse beyond the order, non-compliance of which is alleged. In other words, it cannot say what should not have been done or what should have been done. It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. The same would be impermissible and indefensible.

In ***The State of Bihar vs. Rani Sonabati Kumari***⁷, the Hon'ble Supreme Court while dealing with violation of order passed

⁶ (2004) 7 SCC 261

⁷ AIR 1961 SCC 221

under Order XXXIX Rules 1 & 2 of Civil Procedure Court, held that, a party proceeded against Order XXXIX Rule 2(3) of C.P.C for disobedience of an order of injunction cannot be held to have willfully disobeyed the order provided two conditions are satisfied viz., (1) that the order was ambiguous and was reasonably capable of more than one interpretation (2) that the party being proceeded against in fact did not intend to disobey the order, but conducted himself in accordance with his interpretation of the order. The question whether a party has understood an order in a particular manner and has conducted himself in accordance with such a construction is primarily one of-fact, and where the materials before the Court do not support such a state of affairs, the Court cannot attribute an innocent intention based on presumptions, for the only reason, that ingenuity of Counsel can discover equivocation in the order which is the subject of enforcement. Though undoubtedly proceedings under Order XXXIX Rule 2(3) of C.P.C have a punitive aspect – as is evident from the contemnor being liable to be ordered to be detained in civil prison, they are in substance designed to effect the enforcement of or to execute the order. This is clearly brought out by their identity with the procedure prescribed by Order XXI Rule 32 of C.P.C for execution of a decree for permanent injunction. No doubt the State Government not being a natural person could not be ordered to be detained in civil prison, On the analogy of Corporations; for which special provision is made in Order XXXIX Rule V C.P.C, but beyond that, both when a decree for a permanent injunction is executed and when an order of temporary injunction is enforced the liability of the State Government to be proceeded against appears to us clear.

Applying the principle laid down by the Hon'ble Supreme Court to the present facts of the case, this Court can safely conclude that, Respondent No.7 – Tahsildar, in utter disobedience of the order passed by this Court dated 21.03.2014, consciously violated the order and demolished the compound wall on the pretext of removal of encroachments, despite subsistence of order passed by this Court. Such conduct would not only impede the rule of law, but also cause serious damage to the judicial institution and judicial administration. Therefore, such conduct of Respondent No.7 cannot be encouraged by this Court, taking lenient view against such person who caused serious damage to the judicial institution itself.

As discussed above, and in view of the findings recorded by this Court in the above paragraphs, Respondent No.7 – Tahsildar is liable for punishment as per Section 12 of the Contempt of Courts Act, 1971, and thereby he is punished sentencing him to undergo simple imprisonment for a term of six (06) months and to pay a fine of Rs.2,000/- (Rupees two thousand only). In the event of failure to pay fine of Rs.2,000/-, Registrar (Judicial) is directed to send copy of the order to the District Collector, Visakhapatnam for recovery of amount of fine under the Andhra Pradesh Revenue Recovery Act, 1864 and by following procedure as per law.

In the result, contempt case is partly allowed, directing Respondent No.7 – Tahsildar, Gajuwaka Mandal, Visakhapatnam District to undergo simple imprisonment for a term of six (06) months and to pay a fine of Rs.2,000/- (Rupees two thousand only). In the event of failure to pay fine of Rs.2,000/-, Registrar (Judicial) is directed to send copy of the order to the District

Collector, Visakhapatnam for recovery of amount of fine under the Andhra Pradesh Revenue Recovery Act, 1864 and by following procedure as per law.

Respondent No.7 – Tahsildar, Gajuwaka Mandal, Visakhapatnam District is directed to appear before the Registrar (Judicial), High Court of Andhra Pradesh, on 18.04.2022. On his appearance, the Registrar (Judicial) shall commit him to civil prison in accordance with the order passed above.

Consequently, miscellaneous applications pending if any, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:13.04.2022

SP