

Court No. - 7

WWW.LIVELAW.IN

Case :- CONTEMPT APPLICATION (CIVIL) No. - 5942 of 2014

Applicant :- Abdul Kayyum

Opposite Party :- Sri Neeraj Gutpa Prin. Secy. Home Lko. And 3 Others

Counsel for Applicant :- Tahir Husain

Counsel for Opposite Party :- S.C.

Hon'ble Ajit Kumar,J.

Let the new incumbent to the office of Additional Chief Secretary, Home to the Government of U.P., Lucknow Sri Avnish Kumar Awasthi be impleaded as opposite party no. 5 in the present contempt application.

By means of this contempt application filed under section 12 of the Contempt of Courts Act, 1971 non-compliance of the order of writ Court dated 13.9.2013 passed in Writ- C No.- 26941 of 2013 is complained of.

It is stated that the said writ petition is still pending and this contempt application has been filed due to inaction on the part of the state respondent. An argument has been advanced by learned counsel appearing for the applicant that till date the opposite party no. 1 now opposite party no. 5, who has to take action, has not taken any action. Learned counsel for the applicant has drawn the attention of the Court to the affidavit filed on behalf of opposite party no. 1 and having gone through the affidavit I also find that nothing has been stated regarding any coercive step taken in the matter. Yet another affidavit has been filed on behalf of opposite party no. 2 with similar excuse.

There is absolutely clear order passed by Writ Court on 13.9.2013, in which it has been observed thus:

"The Supreme Court has already passed the order not to raise construction in the name of temple, Church, Mosque or Gurudwara etc on public streets, public parks or other public places etc., which is binding under Article 142 of the Constitution. Though it is not necessary to reiterate the said directions, the district administration/public authorities will take immediate steps to remove unauthorized constructions for religious purpose wherever they have been raised on public places and to stop further constructions on public places."

It is stated that the petition is still pending and interim order dated 13.9.2013 is still operating and has not been modified till

date. The encroachment upon public land, it is argued by learned counsel for the applicant, can be seen from bare eyes and it is unfortunate that the authorities are sitting tight over the matter and is filing affidavit after affidavit with lame excuses.

The submission advanced by learned counsel for the applicant appears to have some substance.

At this stage, learned Standing Counsel submits that some time may be granted to comply with the direction as issued herein above in its letter and spirit. Accordingly, 30 days time is granted.

Let Additional Chief Secretary, Home, Government of U.P., Lucknow now opposite party no. 5 submit a report disclosing comprehensive plan and proposed consequential government action as to how the public lands are going to be saved from unauthorized construction in the name of religious places. Let affidavit to the above effect be filed on or before the next date fixed failing which he shall appear before this Court to show cause as to why contempt proceedings may not be drawn under Section 12 of the contempt of courts act, 1971 against him.

List this matter on 5.10.2021.

Order Date :- 1.9.2021

Kuldeep