

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAI PUR
BENCH, JAI PUR

S. B. Civil Contempt Petition No. 1207/2013
Tota Ram Arya vs. Smt. Veena Gupta & Anr.

In

S. B. Civil Writ Petition No. 1484/2012

Date of Order : 29th November, 2013

HON'BLE MR. JUSTICE R. S. CHAUHAN

Mr. M S. Raghav, for the petitioner.

Petitioner Mr. Tota Ram Arya has filed this contempt petition ostensibly on the ground that the judgment dated 03.02.2012 has not been complied with by the respondents-contemors.

2. Section 20 of the Contempt of Court Act clearly stipulates 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.”

3. Since, the petitioner's contention is that the judgment dated 3.2.2012 has not been implemented and since, the petition has been filed on 9.9.2013, obviously the petition is beyond period of one year. Therefore, this Court has asked Mr. M S. Raghav, the learned counsel for the petitioner, to explain as to how the contempt petition is maintainable when it is hit by limitation? To this query, the learned counsel for the petitioner has

pleaded that immediately after the judgment dated 3.2.2012 was passed, the petitioner has submitted a representation on 21.2.2012. However, the respondents/contemors have sat quietly over the entire issue. Thus, even on 29.1.2013, he had sent a reminder to the respondents-contemors with regard to the representation dated 21.2.2012. But, even after the reminder dated 29.1.2013, the respondents-contemors have not implemented the judgment dated 3.2.2012. Hence, the learned counsel pleads that by submission of the representation and by sending of reminder thereto, the period of limitation has been extended. Hence, the present petition is well within time. He has further contended that since, the petition has been filed not only under Section 10 and 20 of the Contempt of Courts Act, but has also been filed under Article 215 of the Constitution of India, therefore, the period of limitation prescribed by Section 20 is inapplicable to Article 215 of the Constitution of India. Hence, this petition is well within time. Therefore, the petition is clearly maintainable according to the learned counsel for the petitioner.

4. Heard the learned counsel for the petitioner.

5. It is, indeed, trite to state that a period of limitation does not get increased or enlarged merely by filing a representation. The period of limitation is statutory provided and prescribed, unless and until there are certain exceptions given within the statute for increasing the period of limitation. Merely by filing a

representation suo moto, a litigant cannot increase the period of limitation prescribed by law. Therefore, merely because petitioner had filed a representation on 21.2.2012 and had sent a reminder on 29.1.2013 all these acts cannot increase the period of limitation.

6. In the case of **Pallav Seth v. Custodian and Others** [(2001) 7 SCC 549], the Hon'ble Supreme Court has observed that Article 215 of the Constitution of India is merely an enabling provision which empowers the Court with the power of contempt. Article 215 does not prescribe any period of limitation. In fact, Article 215 would have to be read in consonance with Section 20 of the Contempt of Courts Act. Therefore, the period of limitation prescribed by Section 20 would ipso facto apply to Article 215 of the Constitution of India. Therefore, the second contention raised by the learned counsel for the petitioner that since the petition has been filed under Article 215 of the Constitution of India no period of limitation would be applicable, is clearly unacceptable.

7. Since the present petition is hit by limitation, naturally it is not maintainable. Therefore, this contempt petition is, hereby, dismissed as being not maintainable.

(R. S. CHAUHAN), J.

Mak/-

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All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.” Anil Makawana Jr. P.A