

COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

HONOURABLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CONTEMPT CASE NO: 2308 OF 2017

(Contempt Case Under Section 10 to 12 of Contempt of Courts Act to punish the Respondent herein for, willfully violating, the Order of the High Court dated 13-02-2021 in W.A.No. 1118 of 1996 as confirmed in SLP Nos. 10413 to 10415 of 2001, dated 23-11-2001 and also Contempt Case No. 654 of 2002 dated 24-12-2003.)

Between:

1. M/s Godavari Cooperative House Building Society Ltd, Represented by its President Sri P.Sudhakar Reddy S/o. Late Ramachandra Reddy, aged 79 years Occ. Retd. Govt. Servant, 86-A, Kalyan Nagar, Hyderabad - 500 038

...PETITIONER/PETITIONER

AND

1. B.R. Meena, I.A.S., Special Chief Secretary to the Government Revenue (Assn.III) Department, State Government of Telangana, Secretariat, Hyderabad.

....Respondent / Respondent No.1

2. Mrs.K.Chandrakala, Revenue Divisional Officer, Secunderabad, Collectorate, Hyderabad.
3. Mr.S.Ramulu, Tahsildar, Shaikpet, Hyderabad.

...Respondents / Proposed
Contemnors

I.A. NO: 1 OF 2017(APPL. NO: 1027 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave to the petitioner herein to implead the proposed respondents as Contemnor Nos. 2 and 3 in the above contempt proceedings, in the interest of justice.

Counsel for the Petitioner: SRI. PRABHAKAR SRIPADA

Counsel for the Respondents: THE ADDITIONAL ADVOCATE GENERAL

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE N. TUKARAMJI

C.C.No.2308 of 2017

ORDER: (*Per the Hon'ble the Chief Justice Satish Chandra Sharma*)

The present contempt petition is arising out of the order dated 13.02.2001 passed by the Division Bench in W.A.No.1118 of 1996.

The undisputed facts of the case reveal that the petitioner herein, M/s.Godavari Co-operative Housing Building Society Limited, was claiming title and possession in respect of land admeasuring Acs.10.00 in Survey No.129/34/1 of situated in Shaikpet Village, Banjara Hills, Hyderabad. The undisputed facts also reveal that there was a difference of opinion between the two Judges of the Division Bench and the matter was referred to a third Judge. The matter was accordingly placed before the third Judge and the third Judge has passed an order on 25.11.1997 giving his opinion on the points of difference. The matter was thereafter placed before the Division Bench for final order. The Division Bench has passed the final order and the same is reproduced as under:-

"As there was unanimity in the view taken by all the three judges that G.O.Ms.No.942, Revenue (Q) Department, dated 23-6-1983, and the consequential proceedings in Re.No.F4/3049/82, dated 15-12-1982 and also the assignment of the land to the ANRIC in Proceedings Re.F4/3037/81, dated 15-12-1982, are not in accordance with law, they are quashed and the parties are given liberty to establish their rights in a proper judicial forum. Regarding possession, Parvatha Rao, J opined that the material sought to be relied upon by the respondents in support of their contention with regard to the title, possession and adverse possession has to be proved and established. While keeping those questions open, the learned Judge agreed with me in directing the

status quo to be maintained in respect of the lands in question till final determination of the question of title and possession is made by a proper forum. As per the majority opinion, both the parties are directed to maintain status quo in respect of the lands in question till the contravention is resolved by a proper forum.

Coming to the plea of the respondents seeking a direction to the Government to regularise the suit schedule properties to them at a reasonable market rate though the Government rejected their application in pursuance of the order, dated 29-8-2000, we still feel that as the dispute is pending for several years in the courts without finality and there is further possibility of dragging on the proceedings for some more decades in the event of either of the parties approaching the court of law to establish their rights, to put a quietus to the issue more so in the light of the orders passed by the Government from time to time in favour of various persons where under illegal occupations were regularised, we direct the Government to reconsider the issue and consider the feasibility of regularising the lands in question to the respondents at a reasonable market rate, if necessary by inviting the representatives of the respondent-societies for negotiations to arrive at the reasonable market value. It is not a pious hope but wish of this court to do complete justice between the parties. We are fortified in our view by a decision of the Supreme Court in B.C. CHATURVEDI vs. UNION OF INDIA ((1995) 6 SCC 749) wherein their Lordships held

"High Court, being a Court of plenary jurisdiction, has inherent power to do 'complete justice' between the parties similar to Supreme Court's power under Article 142 of the Constitution"

To the same effect are the judgments of this court in BADRUKA COLLEGE OF C & A vs. STATE OF A.P (1997 (1) ALD 282 (FB)) and D. SATYANARAYANA vs. N.T. RAMA RAO (AIR 1988 A.P. 144 (FB))

In the result, the writ appeals are allowed to the extent indicated above. No costs."

The aforesaid order makes it very clear that no finding in respect of possession was given by the Division Bench, the parties were given liberty to establish their rights in a proper Judicial Forum and the Government was directed to re-consider the issue and consider the feasibility of regularising the lands in question in

favour of the alleged land owners at a reasonable market rate by inviting the representatives of the respondents/societies therein for negotiations. After the judgment was delivered, a contempt petition i.e., C.C.No.654 of 2002 was preferred alleging violation of the order of *status quo*. It was decided on 24.12.2003.

The Division Bench, while disposing of the contempt petition, has passed the following order:-

"The averments made in the affidavit filed in support of the Contempt Case, undoubtedly, disclose that there was some scramble for possession on 8-6-2002 on which date admittedly the second respondent herein is stated to have instructed to get the existing boards repainted notifying the land to be government land. The question whether the said land belongs to the Government or to the petitioner-society is yet to be adjudicated in a properly constituted proceeding. Even in the counter affidavit and rejoinder filed by the first respondent-District Collector, there is no specific plea or categorical assertion to the effect that the Government, at all points of time, was in possession and continues to be in possession of the said land. All that is stated is that there were boards existing in the said land duly notifying that the land belongs to the Government and that the same boards were renovated and re-written. The fact remains that the said land is an open land where no constructions of whatsoever nature have been made by the petitioner-society and the respondents except one or two huts alleged to have been raised by the petitioner-society as is evident from the report of the Advocate Commissioner to which no objections have been filed by respondents. In the circumstances, it cannot be said that the respondents are in possession of the said land.

Having regard to the nature of controversy and the allegations levelled by the petitioner-society against the respondents, it is not possible to punish the respondents on the ground that they have committed any contempt as such. It is not clearly averred in the affidavit filed in support of the Contempt Case as to who were the actual persons alleged to have trespassed into the said land. It is true that there is a vague allegation that one Ramaiah came from the office of the second respondent to the said land under the instructions of respondents 1 and 2 and they have erected two boards on 8-6-2002 and threatened that criminal action would be initiated if the boards are removed from the lands. The said Ramaiah is not impleaded as a party respondent. It is not possible to award any punishment to the respondents unless a clear case is made out as to who were those individuals who alleged to have intruded into the possession of

the said land. In the circumstances, we are not inclined to proceed further and punish the respondents for having committed any contempt.

We are, however, required to notice that this Court even while ordering notice in this Contempt Case on 12.06.2002 passed further orders to the following effect:

"Status quo granted earlier by a Division Bench of this Court to continue."

That order continues to hold the field even as on today. We have already noticed the decision of the Division Bench, in which it is clearly held that both the parties are required to maintain status quo in respect of the said land till the controversy is resolved by a proper forum. Thus, it is not open for any of the parties to violate the orders passed by a Division Bench of this Court.

In the result, we hold that the status quo existing as on the date of the decision of the Division Bench, in all respects, including the possession, is required to be maintained and none of the parties shall in whatsoever manner be permitted to alter the nature of the land in whatsoever manner and they shall abide by the order of status quo granted by the Division Bench until the issue is resolved in a properly constituted proceeding. There shall be an order accordingly.

The Contempt Case is accordingly disposed of."

It is true that in the contempt petition, it has been discussed that as per the Commissioner's report, the society was in possession of the land. But, the fact remains that the Division Bench, while delivering the main judgment, has not observed anywhere that the society was in possession. In fact, there was a claim and a counter claim in respect of possession and in those circumstances, the Division Bench has directed the parties to maintain *status quo*. Hence, by no stretch of imagination, it can be presumed that the averment in respect of possession of the society was given a stamp of approval. The order of the Division Bench nowhere gives a stamp of approval in respect of the averment made by the society in respect of possession in the main writ appeals.

Learned counsel for the appellant has argued before this Court that the respondents/State has passed an order dated

06.06.2017 on account of which the contempt petition has been filed and in the aforesaid order, it has been held that the State Government is in possession of the property.

This Court has carefully gone through the aforesaid order. The necessity of passing the aforesaid order arose only because of the direction given by the Division Bench to the State Government to re-consider the issue and consider the feasibility of regularising the lands in question. Because of this direction, representations were preferred by the society and the order dated 06.06.2017 reveals that it was the society, who submitted representation for regularising the lands before the State Government, and in that backdrop, the order has been passed by the State Government. The facts of the case further reveal that in spite of there being a liberty granted to the society, the society has opted not to file any civil suit so far and therefore, this Court is of the considered opinion that by passing the order dated 06.06.2017, the State Government has certainly not committed any contempt in the peculiar facts and circumstances of the case.

The contempt case is accordingly closed.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SD/-K.SRINIVASA RAO
JOINT REGISTRAR

✓
//TRUE COPY//

SECTION OFFICER

To,

1. Sri B.R. Meena, I.A.S., Special Chief Secretary to the Government Revenue (Assn.III) Department, State Government of Telangana, Secretariat, Hyderabad.
2. Smt.K.Chandrakala, Revenue Divisional Officer, Secunderabad, Collectorate, Hyderabad.
3. Sri.S.Ramulu, Tahsildar, Shaikpet, Hyderabad.
4. One CC to SRI. PRABHAKAR SRIPADA, Advocate [OPUC]
5. Two CD Copies
6. One Spare Copy

SB

HIGH COURT

DATED:31/12/2021

ORDER

CC.No.2308 of 2017



CLOSING THE CONTEMPT CASE

10/01/2022
(3)