

(2003) 05 AHC CK 0239

In the Allahabad High Court

Case No : C.M. Contempt Petition No. 1608 of 2003

Amod Kumar and Another

APPELLANT

Vs

Umadhar Dwivedi, District Magistrate

RESPONDENT

Date of Decision : 12-05-2003

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 2

Citation : (2003) 5 AWC 4023

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : A.K. Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—This contempt petition has been filed alleging non-compliance of the order and judgment dated 6.3.2003 passed in Civil Misc. Writ Petition No. 10462 of 2003.

2. By the aforesaid order and judgment dated 6.3.2003 the petition was disposed of with a direction to the Respondent to provide police security to the Petitioners.

3. The Petitioners claim to be the owners and in possession of agricultural land (being Khata No. 24 and new number 26), Gata No. 1000, Area 10 bigha 18 biswa and 9 biswansi, situated in village Salabad, police station Chhatari, district Bulandshahr. It is alleged to have been purchased from its owner Kishan Lal by registered sale deed dated 16.4.1982. It is further alleged that subsequently with mala fide intention filed suit for cancellation of sale deed whereas the applicants filed suit for permanent injunction. The suit filed by Kishan Lal was dismissed and the suit filed by the applicants was decreed by the civil court against which a second appeal was filed before this Court which was dismissed on 15.1.1999 and thereafter SLP preferred by Kishan Lal before the Apex Court was also dismissed on 10.5.1999, upholding the possession of the applicants.

4. It is submitted that the names of the applicants are also recorded in the

revenue records from 1407 to 1412 Fasli.

5. Kishan Lal gave an application on 23.4.2001 before the District Magistrate, Bulandshahr, complaining that the applicants want to encroach over his land. The District Magistrate, Bulandshahr on 5.5.2001 directed the S.D.O. to enquire and report. Accordingly, the S.D.O. submitted his report on 11.5.2001 to the District Magistrate, Bulandshahr, stating therein that the applicants are in possession over the land. Kishan Lal is neither in possession nor he has any right over the land. It is further alleged that Kishan Lal tried to initiate proceedings u/s 145, Cr. P.C. before the Sub-Divisional Magistrate, Shikarpur, district Bulandshahr. Again the matter was enquired through the Station Officer, Police Station Chhatari, district Bulandshahr and thereafter who found that there is no apprehension of breach of peace as the applicants are in actual possession over the land and Kishan Lal had no right over it and further that the applicants are cultivating the land and the application of Kishan Lal dated 23.4.2001 was rejected on 12.5.2001. Another application made by Kishan Lal dated 25.11.2002 also met the same fate and thereafter an enquiry was got conducted through the S.D.M., Shikarpur, who submitted his report dated 30/11/4.12.2002 to the District Magistrate, Bulandshahr, confirming that the applicants are recorded owners and are in possession of the land and further that Kishan Lal had died at Delhi and in village he has no heirs and recommended for necessary police help to the applicants. It appears that on the aforesaid report of the S.D.M. dated 4.12.2002 the District Magistrate passed the order dated 12.12.2002 directing the S.S.P. to provide all help to the applicants so that they may cultivate their land. It is admitted in para 9 of this contempt application that Kishan Lal with whom there was litigation died long back on 9.8.2002 at Delhi leaving behind him no heir. It is also alleged that certain anti-social elements are not permitting the applicants to cultivate their land. This compelled the applicants to file Civil Misc. Writ Petition No. 10462 of 2003 in which the aforesaid order dated 6.3.2003 has been passed. It is submitted that the District Magistrate personally accepted the representation and called for the record of the case but he has not passed any order on the representation of the Petitioner for providing police help.

6. The averment regarding non-passing of the order by the District Magistrate under influence of some alleged political persons is not borne out from the record. Admittedly, Kishan Lal with whom there was litigation died leaving behind no heirs. If any person tried to grab the land of the Petitioners, they can take recourse to law.

7. Learned Counsel for the applicants submits that the applicants are ready to bear all the expenses for the security which may be provided by the State Government.

8. The State is already providing security to V.I.P.'s and is in short of police personnel and funds. If the applicants are ready to meet the expenses for security, they can also arrange for private security personally. No wilful disobedience of the order of this Court could be established by the applicants.

9. Though some delay in deciding the representation would in some circumstances may constitute technical contempt of the order, but the Court has to be slow in taking action in exercise of powers u/s 12 of the Contempt of Courts Act, 1971.

10. All facts and circumstances alleged to be leading to a conclusion that contempt has been committed are to be weighed and the reason for delay has to be looked into. There is already substantial shortage of judicial officers in the State. The District Magistrates are over-burdened. A little delay in deciding the representation in such circumstances may not be of much relevance as the representation was admittedly decided which is an indication that the District Magistrate had no wilful intention of disobedience of orders of the Court.

11. No case for contempt is made out. The contempt petition is dismissed.

12. No order as to costs.

13. It is however, directed that the District Magistrate will decide the representation of the Petitioner by a speaking and reasoned order within a period of one month from the date of production of a certified copy of this order in accordance with law.