

(2009) 11 KAR CK 0052

In the Karnataka High Court

Case No : C.C.C. No"s. 1347 of 2009 and 1474-1477 of 2009 (Civil)

Anees Sultana and Others

APPELLANT

Vs

R.B. Agwani and Others

RESPONDENT

Date of Decision : 30-11-2009

Acts Referred:

Citation : (2013) 1 AKR 452

Hon'ble Judges : K.N. Keshavanarayana, J;D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : S.S. Sajjanshetty, for the Appellant; S.S. Kumman, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—These contempt petitions filed under Sections 11 & 12 of the Contempt of Courts Act, 1971 are by the writ petitioners in W.P. No. 8322/2007 (LA-RES) (five in numbers) and W.P. No. 8323/2007 (LA-RES) (four in numbers) and are listed today before the Court for not fulfilling the deficiencies pointed out by the Registry in the presentation of the contempt petitions. Sri S. S. Sajjanshetty, learned Counsel appearing for the Complainants requested for a week"s time to comply with the short fall and to make the complaints tenable.

2. However, from the perusal of petition averments and on hearing the submissions made by Sri S. S. Sajjanshetty, learned Counsel for the Complainants and also Sri S. S. Kumman, learned AGA appearing for the respondents, we find these contempt petitions are not any different from a series of contempt petitions, we have come across hitherto where under, persons without bona fides, without any legal basis and without any real cause of action had approached this Court for issue of a Writ of Mandamus on imaginary grievances and even without any legal entitlements and with the learned AGA appearing for the State either conceding or not opposing, the prayer in the writ petition being granted and thereafter writ petitioners coming back before this Court with Contempt Petitions complaining of non-compliance by the respondents

of the orders/directions passed in the writ petition and therefore have rendered themselves for action in contempt jurisdiction.

3. The story in this petition is not any different from similar matters, disposed of by us in CCC No. 1324/2009 dated 23.11.2009 etc.

4. The Registry has also overlooked that there should have been as many contempt petitions as there are complainants. Each complainant was a different writ petitioner even in the writ petition and even as per the submission of Sri S. S. Sajjanshetty, learned Counsel for the Complainants, separate Court fee had been paid on the writ petitions and even on these complaints separate Court fee has been paid. Therefore, the Registry is directed to assign commensurate separate numbers.

5. Contempt Petitioners are complaining that the orders passed by this Court in W.P. No. 8322/2007 (LA-RES) dated 12.2.2009 and in W.P. No. 8323/2007 (LA-RES) dated 12.2.2009 are not complied with, and the State Government has not considered the representations made by the petitioners as per Annexures "P" and "Z8" annexed to the respective writ petitions within a period of two months as directed.

6. A perusal of Annexure "P" dated 3.3.2003 indicates that it is a representation by one Ajimoddin Patel S/o Mastan Patel, Behind K.E.B. Colony, Sedam-585 222, District Gulbarga, addressed to the Governor of the State of Karnataka and it is a representation, which is general in nature, inter alia, complaining that though certain proceedings under the Karnataka Highways Act had begun about two years earlier, there was no action on the part of the Government to sanction compensation to the land owners and therefore he had urged the Governor to direct the Government to sanction and pay compensation to the persons affected. This representation is of very general nature, vague and not with reference to the lands of either of the writ petitioners or the Complainants.

7. Sri S. S. Sajjanshetty, learned Counsel appearing for the Complainants, has also brought to our notice another representation dated 9.8.2004 again by the very person and in a representative capacity addressed to the Chief Engineer, Buildings and Communication, Karnataka State Highways Authorities, Dharwad, urging upon the Chief Engineer, to ensure that the boundary line of the State Highway passing through the town limits of Sedam Town is confined to 15 meters from the centre of the road and ensure that it does not extend upto 22.5 meters as is the case generally when the boundary lines are drawn outside the town limits and nothing else.

8. Even on our pointed queries Sri S. S. Sajjanshetty, learned Counsel appearing for the Complainants is unable to show any acquisition proceedings in terms of the provisions of Section 15 of the Karnataka Highways Act, 1964 which reads as under:--

15. Acquisition of land or right or interest in land: If at any time on the

application of the Highway Authority, the State Government is satisfied that any land required for the purposes of a highway or any right or interest of any person in any land required for the said purposes should be compulsorily acquired or extinguished, as the case may be, it shall be lawful for the State Government to publish a notification to that effect in the official Gazette. Such notification shall also be published in such other manner as may be prescribed. A notification so published shall be deemed to be the declaration that the land is needed or, as the case may be the right or interest is required to be extinguished for the purposes of the highway; and such deemed to be the declaration that the land is needed or, as or the right or interest is so required to be extinguished.

9. Learned Counsel is not able to point out any such proceedings vis-a-vis the complainants and writ petitioners to indicate that any land in their ownership and to any extent has been acquired by the State Government for the benefit of the Highways Authorities and that the petitioners consequently had become entitled to compensation.

10. However, Annexure "B" to the writ petition on which strong reliance was placed by Sri S. S. Sajjanshetty to contend that the respondents have acquired the lands of the complainants, is a notification dated 8.8.2001 issued u/s 7(1) & Section 8 of the Karnataka Highways Act, relating to fixation of the highway boundary lines, building line and control line and does not relate to any acquisition proceedings.

11. In response to the notice that has been issued by this Court in these contempt petitions, respondents are represented by Sri S. S. Kumman, learned AGA and 4th respondent has filed a counter inter alia indicating that there is no case for taking any contempt action against the respondents; that in fact redrawing of the boundary lines has been now finalised in terms of a notification dated 21.11.2009 issued u/s 7 of the Act pursuant to the proceedings of the Government dated 5.7.2009, as a follow up action of the directions issued by this Court in W.P. Nos. 8322/2007 and 8323/2007 dated 12.2.2009; that, no lands of the complainants/petitioners have ever been acquired and therefore there was never any occasion to pay them compensation. Even the other grievance of reducing Highway boundary line in Sedam town has also been now acceded to by reducing the same from 22.5 meters to present 15 meters and as such there is absolutely no grievance, which the Complainants can still press for action against the respondents and therefore, the contempt petition is to be dismissed.

12. We have also noticed from the records and the notification placed before the Court that the Government in fact had taken a decision even in the year 2004 itself to reduce the Highway boundary line from 22.5 meters to 15 meters and it was only a follow up notification under Sections 7 & 8 of the Act that had not been issued hitherto. At any rate we find that the petitioners/Complainants have never been affected by the action or inaction on the part of the Highway authorities. We also find that the entire grievance of the petitioners/Complainants both in the writ petition and in the present contempt petition is

more imaginary than any genuine grievance. In fact there was no cause of action for the Complainants to approach this Court seeking for issue of a Writ of Mandamus, and the entire writ petition averments appears to be only based only on mis-representation, incorrect facts and even lies.

13. Complainants have only misused and abused the process of this Court both in writ jurisdiction and in contempt jurisdiction and have therefore wasted the valuable judicial time of this Court, which in fact is meant to be spent for the redressal of grievances of bona fide, affected litigants on such frivolous matters, without bona fides and without cause of action. We strongly deprecate such tendency on the part of the litigants. It is rather surprising that the learned Counsel appearing for such litigants have also made themselves bold to assert wrong facts and on untenable legal basis, virtually trying to convince the Court on facts and law, not borne out on record and not available in reality. It is high time for this Court to bestow greater attention to discourage such tendencies on the part of such litigants.

14. We cannot help noticing that even the learned Counsel appearing for the State Government have not at all been discharging their professional duties in a proper manner to protect the interest of the State Government, which infact is only in public interest and public interest is sacrificed due to their either incompetency or deliberate inaction. This tendency also is only to be deprecated and it is high time for the State Government to take notice of these developments and ensure that competent, bona fide committed members of the Bar are appointed as Government Advocates and Government Pleaders.

15. These contempt petitions are dismissed levying cost of Rs. 1,000/- on each of the Complainant numbering nine in all.

16. We direct the cost to be deposited before the Registry of this Court and the amount to be transmitted to the account of the High Court Legal Services Committee to be maintained at this Bench, which can be availed to extend legal aid to the poor litigants, who need such aid and come up with their problems before this Bench of the High Court. Cost to be deposited within four weeks from today.

17. The Additional Registrar General to monitor the disbursement of the amount to deserving litigants and to ensure that a separate account is maintained at the Registry for this purpose and costs, if any, awarded, in favour of the Committee is promptly credited to this account and properly accounted for.

18. Registry is directed to renumber the contempt petitions and to give additional seven numbers as three are nine contempt petitions. Contempt Petitions dismissed with costs.