

(2014) 08 AHC CK 0008
In the Allahabad High Court

Case No : Special Appeal Nos. 295, 296, 297, 298, 299 and 300 of 2014

Deepak Singhal

APPELLANT

Vs

Dinesh Kumar Tandan

RESPONDENT

Date of Decision : 20-08-2014

Acts Referred:

Contempt of Courts Act, 1971 — Section 12

Citation : (2015) 108 ALR 40 : (2015) 126 RD 583

Hon'ble Judges : Devi Prasad Singh, J;Arvind Kumar Tripathi (II), J

Bench : Division Bench

Advocate : S.C. Yadav, Advocates for the Respondent

Judgement

Devi Prasad Singh and Arvind Kumar Tripathi (II), JJ.—Heard learned Counsel for the appellant and Shri S.C. Yadav, learned Counsel for the petitioners-respondents and also perused the record. Special Appeal No. 295 of 2014 has been preferred against order dated 14.5.2014 by which the learned Contempt Judge has summoned the authorities of the appellant on account of non-compliance of the order dated 25.2.2014 passed in Writ Petition No. 11077 of 2013.

2. Special Appeal No. 296 of 2014 has been preferred against order dated 14.5.2014 by which the learned Contempt Judge has summoned the authorities of the appellant on account of non-compliance of the order dated 10.3.2014 passed in Writ Petition No. 11063 of 2013.

3. Special Appeal No. 297 of 2014 has been preferred against order dated 14.5.2014 by which the learned Contempt Judge has summoned the authorities of the appellant on account of non-compliance of the order dated 11.3.2014 passed in Writ Petition No. 11135 of 2013.

4. Special Appeal No. 298 of 2014 has been preferred against order dated 14.5.2014 by which the learned Contempt Judge has summoned the authorities of the appellant on account of non-compliance of the order dated 11.2.2014

passed in Writ Petition No. 11402 of 2013.

5. Special Appeal No. 299 of 2014 has been preferred against order dated 14.5.2014 by which the learned Contempt Judge has summoned the authorities of the appellant on account of non-compliance of the order dated 11.2.2014 passed in Writ Petition No. 11405 of 2013.

6. Special Appeal No. 300 of 2014 has been preferred against order dated 14.5.2014 by which the learned Contempt Judge has summoned the authorities of the appellant on account of non-compliance of the order dated 25.2.2014 passed in Writ Petition No. 11407 of 2013.

Since the controversy involved in the aforesaid special appeals are similar, they have been heard together and are being decided by a common judgment.

7. Submission of learned Counsel for the appellant is that pursuant to judgment of this Court the appellant had issued office memorandum dated 6.5.2014 finding that certain formalities have not been completed, hence payment could not be made. It is further submitted that in the event of dispute between the parties, the benefits of judgment shall not be made available.

8. On the other hand, Shri S.C. Yadav, learned Counsel for the respondents submitted that catena of documents, placed on record before the learned Contempt Judge, reveal that there was no dispute with regard to outstanding dues, rather Executive Engineer has himself wrote a letter with regard to outstanding dues payable to the petitioners-respondents. It is submitted that Superintending Engineer also wrote a letter dated 24.5.2014 to the appellant-respondent, but they declined to make payment on unfounded grounds. He further submitted that Staff Officer, Superintending Engineer, Chief Engineer and Engineer in Chief also wrote the State Government demanding money for payment to the petitioners-respondents in pursuance of the judgment of this Court and this aspect of the matter may also be considered by the learned Contempt Judge or other appropriate forum.

9. Prima facie, number of documents, referred to by Shri S.C. Yadav, learned Counsel for the respondents, require probe, and their genuineness should be tested only after finding is recorded with regard to outstanding dues in question.

10. Learned Counsel for the appellant has relied upon the judgments in the cases of Director of Education, Uttaranchal and Others Vs. Ved Prakash Joshi and Others, ; Union of India (UOI) and Others Vs. Subedar Devassy PV, ; Jhareswar Prasad Paul and Another Vs. Tarak Nath Ganguly and Others, ; Bihar Finance Service H.C. Coop. Soc. Ltd. Vs. Gautam Goswami and Others, and Lalith Mathur v. L. Maheshwara Rao 2000 (10) SCC 285 and submitted that the learned Contempt Judge lacks jurisdiction to record factual findings, or assail the decision taken by the authorities in pursuance of the judgment of this Court. Since in office memorandum dated 6.5.2014 the finding has been recorded with regard to certain disputed questions of fact, it was not open to the learned Contempt Judge

to record findings, contrary to the findings recorded by the office memorandum dated 6.5.2014.

11. So far as proposition of law is concerned, it seems to be well settled that while exercising contempt jurisdiction it is not open for the learned Contempt Judge to travel beyond the power conferred under section 12 of the Contempt of Court's Act i.e., to punish the contemnor for non-compliance of judgment, but in case the judgment is not complied with, ordinarily, correctness of order may not be questioned.

12. Apart from the above, learned Contempt Judge has not recorded any finding from pleading on record, to the effect, that from the material on record the appellant had committed some forgery, and document has been manufactured to avoid compliance of the judgment of this Court. In absence of any finding with regard to mala fide and publication of record on the part of the appellant to circumvent the judgment of this Court. Allegation should have been considered before proceeding to summon the appellant.

13. While parting with the case, we would like to add that before proceeding ahead in the matter, the learned Contempt Judge should look into subsequent developments and take note of office memorandum dated 6.5.2014, which, prima facie, seems to create fresh cause of action. However, we leave it open to the learned Contempt Judge to record findings before proceeding ahead after taking into account office memorandum dated 6.5.2014. It is clarified that the learned Contempt Judge shall not be influenced by the observations made above except in accordance with the proposition of law. Accordingly, the special appeals are allowed. The impugned order dated 14.5.2014 is set aside. The matter is remitted back to the learned Contempt Judge to take fresh decision in view of the observations made above.