

**(2002) 01 AP CK 0117**

**In the Andhra Pradesh High Court**

**Case No :** Contempt Case No. 1002 of 2001

Diamond Hills Welfare Association

APPELLANT

Vs

Smt. Lakshmi Parthasarathy, Vice-Chairman, HUDA

RESPONDENT

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**Date of Decision :** 25-01-2002

**Acts Referred:**

Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 — Section 38E  
Constitution of India, 1950 — Article 129, 215, 226  
Contempt of Courts Act, 1971 — Section 20  
Urban Land (Ceiling and Regulation) Act, 1976 — Section 2(1)

**Citation :** (2002) 3 ALT 527

**Hon'ble Judges :** G. Bikshapathy, J

**Bench :** Single Bench

**Advocate :** M. Hari Babu, for the Appellant; S. Satyam Reddy, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

G. Bikshapathy, J.—The Contempt Case is filed alleging violation of directions issued by this Court in Writ Petition No,26192 of 1998 dated 11-11-1998 and the directions issued in Contempt Case No. 1289 of 1999 dated 28-3-2000.

2. The matter has a chequered history.

3. The members of the Diamond Hills Welfare Association filed a Writ Petition for direction to the respondents to release the lay out in S.Nos. 48 to 52 and 53(p) in Gachibowli village, Sherilingampally Municipality, Ranga Reddy District as per the directions issued by the Government in Memo No. 3283/1(1)/89-3 M.A. dated 31-12-1990. The said Writ Petition was disposed of on 11-11-1998 with the following directions:

"The learned Standing Counsel appearing for HUDA submits that since the Government have not issued final notification, no action is being taken.

As seen from G.O.Ms. No. 85 dated 15-2-1994 the Government have already communicated the Order of conversion to HUDA. Under these circumstances, it is necessary that the 2nd respondent should consider the Lay Out submitted by the petitioner and approve the same in accordance with rules keeping in view the directions issued by the Government in Memorandum dated 31-12-1990 and the G.O.Ms. No. 367 dated 12-7-1988. This exercise shall be done within a period of six weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly disposed of. No costs."

Thereafter the matter was represented to the HUDA by the members for release of the Lay out.

4. It is stated that the HUDA has not responded to the representation made by the petitioner and therefore, they issued notice intimating that they would be constrained to file Contempt Petition in this Court. After receipt of this notice the respondent issued letter dated 3-3-1999 stating that the Government have not issued Orders for change of land use and therefore, in the absence of the said notification, they cannot take any action. The petitioner submits that a sum of Rs. 2,40,901/- was already paid for the purpose and not able to put up with the deliberate delay, the petitioner filed Contempt Case No. 1289 of 1999 before this Court. After tiling the Contempt Case it was brought to the notice of this Court that Government have since issued G.O.Ms. No. 183, dated 24-3-2000 converting the land use. In view of this submission, the Contempt Case was disposed of on 28-3-2000 directing the respondents to comply with Orders in Writ Petition within eight weeks.

5. After the disposal of the Contempt Case, petitioner submitted representation enclosing the Order of this Court. Again another reminder was also issued on 16-7-2001. Even then, no action was taken, by the HUDA. Therefore, the present Contempt Case has been filed by the petitioners alleging violation of the Orders in the main Writ Petition and also the direction issued in the Contempt Case No. 1289 of 1999. Pending the Contempt application, the interim directions were issued to consider the case consequent on the transmission of the Lay out and resolution by the Sherilingampally Municipality.

6. HUDA filed earlier counter-affidavits on 10-9-2001 stating as follows:

"I respectfully submit that the regulations of Gram Panchayat layout will have to be routed through the concerned Municipality, in this case the Sherilingampally Municipality as per G.O.Ms. No. 367, dated 12-7-1988. I submit that the petitioner has to approach Sherilingampally Municipality and get the regularisation proposals forwarded to this respondent and unless and until the proposal comes from the Municipality, this respondent cannot suo motu approved regularisation of the Lay Out. However, the petitioner has chosen to file the Contempt Case against this respondent who cannot take any action in the matter without receiving the proposals from Shrlingampally Municipality. I submit that this respondent authority requested the Commissioner, Sherilingampally

Municipality duly making a copy to the petitioner vide Lr. No. 10814/MP1/HUDA/89, dated 9-6-2000 with a request to forward the proposals to HUDA along with Council Resolution. A reminder also was addressed to the Sherilingampally Municipality vide letter dated 16-9-2000. The petitioner also was informed on 31-7-2001 to submit certain documents as requested by the Commissioner, Sherilingampally Municipality so that HUDA can take necessary action. This respondent is not aware as to whether the petitioner has done so or not. However suppressing the facts, the petitioner has chosen to file the present Contempt Case for the reasons best known to him. I am bringing this fact to the notice of this Hon"ble Court and the Hon"ble Court may take appropriate action.

In view of the above, I submit that I have not violated the Orders of this Hon"ble Court and therefore, the Contempt Case filed by the petitioner; may be dismissed with costs."

7. After the matter had undergone few adjournments, it was brought to the notice of this Court that the Sherilingampally Municipality has passed necessary resolution and also forwarded the Lay Out to the HUDA.

8. Basing on this statement, and consequent on the resolution passed by the Municipality, the directions were issued on 17-9-2001 to report the compliance on the ground that the Municipal Council of Sherilingampally Municipality by letter dated 6-9-2001 passed resolution requesting the Vice-Chariman, HUDA to regularise the Lay Out submitted by the petitioner-Society. But, however, another additional counter was filed bringing some more issues to the notice of this Court. It is stated that on scrutiny of the 488 Sale Deeds submitted by the members of the Society, it was found that the ownership is not conclusively established and that P.T. holders were already on record and that the applicants are not sure about the registered owners and that there was a clear dichotomy in the stand taken by the petitioner in regard to the ownership rights. It is also stated that as per the conditions laid down in G.O.Ms. No. 65 dated 5-2-1987 and 367 dated 12-7-1988 the regularisation has to conform to the conditions laid down in the said G.Os. Since the petitioner-Society did not fulfil the conditions as stipulated in the G.Os. the Lay Out cannot be considered.

9. The learned counsel for the petitioner submits that there is a dear and deliberate violation of the Orders of this Court by the respondent, the way in which the matter was dealt with from stage to stage would itself reveal the mind of the authorities to reject the case on one ground or the other. Thus, the respondent has deliberately caused obstructions for the proper implementation of the Orders of this Court which constitute contempt of the Orders of this Court and therefore, she is liable for contempt.

10. The learned counsel for the petitioner relies on the decision of the Supreme Court reported in Pallav Sheth Vs. Custodian and Others, and M.C. Mehta Vs. Union of India and Others, . On the other hand, the learned Standing Counsel appearing for the HUDA submits that there are no laches on the part of the

respondent in dealing with the matter. The matter was fairly and honestly considered and it was found that there is a dispute with regard to the title and also it lacks Urban Land Ceiling clearance and therefore, the action of the respondent in not releasing the Lay out cannot be said to be intentional or deliberate and therefore, it cannot constitute contempt of the Orders of this Court. He further submits that whatever the decision was taken was in accordance with the directions issued by the Government in various G.Os. and hence contempt case has to be dismissed.

11. The issue that arises for consideration in the Contempt Case is whether there is deliberate violation of the Orders passed by this Court in Writ Petition No. 26192 of 1998 dated 11-11-1998 and in Contempt Case No. 1289 of 1999 dated 28-3-2000?

12. The sequence of events need not be reiterated again. The Writ Petition was disposed of with a direction to consider the case of the petitioner-Society for release of Lay out in accordance with the directions issued by the Government in G.Os. referred to above. It is also to be noted in this regard that as early as in 1991, the land use was permitted by the Government and necessary charges in that regard were also deposited by the petitioner. It is pertinent to refer to the letter dated 3-3-1999 issued by the HUDA to the petitioner-association consequent on the directions issued by this Court in Writ Petition No. 26192 of 1998 and in the said letter it has been clearly stated that the Government was also informed of the payment of development charges on 6-6-1995 by letter dated 26-6-1995 along with the details of ownership and Urban Land Ceiling clearance and subsequent correspondence which was undertaken by the HUDA. The relevant paras from the said letter are extracted below:

"The Government was also informed the payment of Development charges on 6-6-1995 vide Letter No. 10814/ MP1/HUDA/89, dated 26-6-1995 along with details of ownership and U.L.C. aspects. Subsequently, a letter was received from Vignanpuri Residents Welfare Association dated 19-12-1991, requesting to delink Sy. No. 18(p) from other Sy. Nos. mentioned in Govt. Memo dated 31-12-90 to an extent of 5.47 acres from recreational use and Tourism use to Residential use. The Government issued final change of land use Order vide G.O.Ms. No. 85, M.A. dated 15-2-1994 for S.No. 18(p) only to an extent of 5.47 acres and for other S.No. i.e. from 48 to 52 and 53(p) of Gachibowli village. The Government have not issued final change of land use Orders till this date. In this case, for the S.Nos. 48 to 52 and 53(p) neither the Municipality nor the applicant has applied for Lay Out to HUDA and also as per the records available in HUDA. The S.No. 48(p) and 49 (p) of Gachibowli village and declared as surplus land by the U.L.C. authorities as per letter No. A4/2500/96, dated 1-3-1997.

As per your representation to HUDA dated 19-11-1998 to consider the request as per the Court Orders, the proposals cannot be considered, as the Government has not issued the final change of land use Orders for the S.Nos. 48 to 52 and 53(p) of Gachibowli village, and G.O.Ms. No. 85, dated 15-2-94 stated in the

Court Order is not applicable to this instant case, and the HUDA office has not received any proposals for regularisation of Lay out as per G.O.Ms. No. 367 M.A. dated 12-7-1988 neither from Municipality nor from the applicant. Therefore, the proposals received vide reference 6th cited is hereby rejected. Therefore, we cannot implement Orders of the Hon"ble High Court dated 11-11-98 in the absence of change of land use Orders and receipt of application of Lay out for regularisation from Sherilingampally Municipality."

13. Therefore, one of the reasons for rejecting the Lay Out was that it was not transmitted by the Sherilingampally Municipality and therefore, the Lay Out could not be approved. But, subsequent events would reveal that the Sherilingampally Municipality has passed resolution requesting the HUDA to approve the Lay Out and accordingly necessary papers were already transmitted to the HUDA by the Sherilingampally Municipality. After the matter has been received by the HUDA with regard to the release of Lay out, the additional counter-affidavit has been filed by the respondent stating that the clearance from the Urban Land Ceiling authorities and the ownership documents were not forthcoming and therefore, unless these documents are furnished, their cases cannot be considered. The conduct of the respondent in this regard has to be noticed. Reasons rejecting the approval have been changed from time to time. When the Writ Petition itself was disposed of, sufficient latitude was given to the authorities to consider the matter keeping in view the guidelines issued by the Government in this regard and when that was not acted upon, when a Contempt Case has been filed, it was again disposed of giving further liberty to the respondent to consider the matter. One of the objections sought to be raised when the matters were pending was that the resolution of the Municipality was not received by the HUDA and therefore, the matter could not be decided. But when that was complied with the approval was sought to be withheld on the alleged ground of title and U.L.C. clearance.

14. The principal question that calls for consideration is whether there was any deliberate act on the part of the respondent trying to either create obstacles or reject the case on a perceivably unfair or illegal grounds. It is not in dispute that the members of the petitioner-association numbering over 500 have been struggling for getting the Lay out approved for more than a decade and it was being postponed on one ground or the other. But, when the matter has taken a final shape and that the only hitch which was brought before this Court that the resolution was not passed by the Sherilingampally Municipality and when that hurdle was cleared when the resolution was received by the HUDA in all fairness, the HUDA ought to have considered the matter. If really there was any other obstacles, it could have been brought to the notice of this Court at the stage of disposal of the earlier Contempt Case or when the interim Orders were passed on 17-9-2001. But, no such grounds were brought before this Court, but curiously after the appearance of the respondent was ordered, additional counter was filed by the respondent, taking altogether new grounds were urged stating that the urban land ceiling clearance was not available and the title of the vendors of members of the petitioner-Society was not clearly established. But, as far as

these two issues are concerned, as already noticed above, these were considered by the HUDA. As long back as 3-3-1999 in their communication to the Government they have clearly referred to the payment particulars and also the ownership and Urban Land Ceiling clearance aspects. When once, it was brought to the notice of the Government, the Government also issued notification converting the land to recreation zone. Therefore, can it be said that still the respondent is entitled to raise the question of Urban Land Ceiling clearance and also the ownership. As far as the Urban Land Ceiling clearance is concerned, it was also brought to the notice of the respondent that the Order was passed by the appellate authority-Special Officer dated 8-11-1996 to clear the Urban Land Ceiling clearance, wherein it was specifically stated as follows:

"In view of the above facts, it is clear that the lands in S.Nos. 50, 51, 52, 53 of Gachibowli village are not held by the declarant firm and cannot be dealt with under the Urban Land (Ceiling and Regulation) Act, 1976, while applying the principle laid down in the Supreme Court of India's Orders in Atiya Mohammadi Begum's case, as well as the Orders of Honourable High Court in W.A. No. 1420 of 1987. Therefore, it is treated that the declarants are not holders of the lands in question Under Sections 2 (1) of the Act. The C.F. filed are accordingly closed."

15. With regard to the title deeds, it is to be noted that as many as 488 Sale Deeds were placed before the respondent for consideration as to the title. In the said Sale Deeds, sufficient narration with regard to the title has been made out. It is not only the Corporation which has executed the Sale Deeds in favour of the members of the petitioner-Society, but also the other persons who were said to be protected tenants covered by the provisions of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 and to be on the safe side, all the persons interested in the land and also the owners jointly executed the said Sale Deeds. In spite of this, the respondent thought it fit to state that there was dichotomy in the stand taken by the members of the petitioner-Society with regard to the ownership rights from their vendors. It is clearly mentioned in the Sale Deeds that the provisions relating to Section 38-E were taken care of, namely, that the protected tenant failed to exercise the option refused to purchase the same and expressed his inability to purchase the land of which he is a protected tenant, it became open for the owner to sell the same to the third parties. Thereby the P.T. holder forfeited their right to have any claim over the land. Thus, this Court finds that the objections which are sought to be raised from time to time and the last objections which were raised by the respondent in the additional counter are wholly unsustainable in law and they are invented for the purpose of rejecting the claims of the members for releasing the Lay out. The way in which the matter was dealt with by the respondent itself discloses that the respondent was bent upon rejecting the Lay out on one ground or the other. The conduct of the respondent which is being reflected in the grounds of rejection changed from time to time. If objections are taken, they have to be taken at one time and not at different spells and at different times in different direction. So called objection with regard to the Urban Land Ceiling clearance and

title deeds was not taken when the proceedings were adjudicated by this Court in Writ Petition No. 26192 of 1998 or in Contempt Case No. 1289 of 1999. Sole objection was raised that the Lay out proposed was not routed through the Sherilingampally Municipality and as soon as it was received the Lay out would be cleared. The respondent was under the impression that the Municipality would not forward the Lay out. When it has received the plans from Municipality, the direction was given to consider the plan and report compliance. Since, compliance was not reported, this Court ordered the appearance of the respondent. Not able to put up with the situation and to achieve the intention of rejecting the Lay out, some more grounds were pressed into service by filing additional counter.

16. It is now well settled by catena of decisions that if the action of the authorities cause obstruction to the course of justice either directly or indirectly, it amounts to contempt of the Orders of this Court and such persons who are not even parties to the Order are also liable for contempt under the provisions of the Contempt of Courts Act.

17. In this case it is clear that the respondent has not conducted herself in a way which the Orders enjoin upon her to do so. Taking objections piece meal and rejecting the case on one or the other untenable grounds would exhibit contumacious conduct of the respondent. The conduct of the respondent in seeking to reject the Lay out has to be deprecated and this Court tried to give any amount of latitude to the respondent to consider the matter in a proper perspective and take an appropriate and fair decision keeping in view the provisions of the Act and also the guidelines. But springing to the objections which are unsustainable which are unwarranted would be nothing, but causing obstruction to the course of justice and that itself establishes deliberate, intentional and revengeful attitude to disobey the Orders of this Court.

18. The ostensible appearance of the grounds are not sufficient to hold that there was no wilful disobedience, but the reasons must be processed under legal radiology for arriving at a judicious diagnosis. If the respondent is positive, the deliberate and wilful disobedience stand vindicated. In Pallav Sheth's case (1st cited supra), the Supreme Court referred to the powers of the High Court under Article 215 of the Constitution and observed as follows:

"There can be no doubt that the Supreme Court and High Courts are Courts of Record and the Constitution has given them the powers to punish for contempt. This power cannot be abrogated or stultified. But, if the power under Article 129 and Article 215 is absolute can there be any Legislation indicating the manner and to the extent that the power can be exercised? If there is any provision of the law which stultifies or abrogates the power under Article 129 and/or Article 215 there can be little doubt that such law would not be regarded as having been validly enacted. However, a law providing for the quantum of punishment or what may or may not be regarded as acts of contempt or even providing for a period of limitation for initiating proceedings for contempt cannot be taken to be

provision which abrogates or stultifies the contempt jurisdiction under Art. 129 or Article 215 of the Constitution, Court have always frowned upon the grant or existence of absolute or unbridled power. Just as power or jurisdiction under Article 226 has to be exercised in accordance with law, if any, enacted, by the legislature it would stand to reason that the power under Article 129 and/or Article 215 should be exercised in consonance with the provisions of validly enacted law. In case of apparent or likelihood of conflict the provisions should be construed harmoniously. It, therefore, follow that if Section 20 is to interpreted that it does not stultify the powers under Article 129 or Article 215 then, like other provisions of the Contempt of Courts Act relating to the extent of punishment which can be imposed, a reasonable period of limitation can also be provided."

19. Even in Mehta's case (2nd cited supra), the Supreme Court observed that the lethargic and lackadaisical approach of the authorities in implementation of the Orders of this Court also would amount to contumacious conduct warranting action under the provisions of the Contempt of Courts Act. Paras 7 to 9 are relevant which are extracted below:

"We heard the learned counsel for the contemnors and are of the opinion that NCT, Delhi, Municipal Corporation of Delhi and the other local authorities have not put in sufficient effort to comply with the Orders of relocation and there is clearly a serious lapse on their part. There has been a lack of effort and will on the part of the authorities giving us the impression that wealth rather than, or at the expense of, health seems to be a greater concern for them.

Orders were passed by this Court requiring the executive to implement the law within a time-frame. This had become necessary as tolerance of illegality in the non-conforming use of land had increased the pollution to a hazardous level. It was the duty of the chief executive functionaries (sic. to see) that the executive functioned. Even if there had been no deliberate or wilful disregard for the Orders passed, there has clearly been a lackadaisical attitude and approach towards them. The welfare of the silent majority of the citizens of Delhi has been put on hold.

While we do not propose to take any further action in this matter but such lethargic attitude, if it continues, may soon become contumacious. With a hope that the Orders will be earnestly complied with, we direct the closure of these contempt proceedings and discharge the rule."

20. Keeping in view the facts and circumstances of the case and the matter which has taken a considerable length of time right from the disposal of the case and the way in which the matter has been dealt with by the respondent itself indicates that the respondent was inclined to disobey the Orders rather than complying with the Orders of this Court. It is nothing but wilfully disrespecting and disregarding the authority of the Court. Therefore, this Court is constrained to exercise the power of "Contempt for upholding the dignity of the Court and

majesty of law".

21. Under these circumstances, this Court holds the respondent guilty of the contempt of the Orders of this Court in Writ Petition No. 26192 of 1998 dated 11-11-1998 and Contempt Case No. 1289 of 1999, dated 28-3-2000. The respondent was given opportunity to express her say on the question of sentence. She had tendered unconditional apology and that she will be more careful in future.

22. The respondent is a senior I.A.S. officer. Keeping in view her future service prospects, the age of the Officer and that she has offered unconditional apology this Court takes lenient view of the matter and warns the officer to be careful in future in dealing with the Court matters.

23. Accordingly, she is let off with a warning not to be recorded in the service registers or the service record of the respondent so as not to cause any obstruction to her service prospects or career.

24. The respondent is directed to consider the matter now without reference to the Urban Land Ceiling clearance and the title and release the Lay Out within a period of two months from the date of receipt of a copy of this order. If necessary, the respondent shall approach the Government for further directions so as to ensure that the Lay Out is cleared at the earliest possible time as it is submitted by the learned counsel for the petitioner-association that the land encroachers and grabbers are turning their eyes over the property and to protect from the onslaught of the unauthorised occupants.

25. The Contempt Case is accordingly disposed of. No costs.