

(2009) 11 MP CK 0013
In the Madhya Pradesh High Court

Horilal	Vs	APPELLANT
Bhajanlal		RESPONDENT

Date of Decision : 06-11-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Constitution of India, 1950 — Article 215
Contempt of Courts Act, 1971 — Section 12
Madhya Pradesh/Chhattisgarh Accommodation Control Act, 1961 — Section 12(1)

Citation : AIR 2010 MP 144 : (2009) ILR (MP) 3061

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajendra Menon, J.—This application has been filed for initiating action for contempt on the grounds of disobedience of order passed in MCC No. 529/2009, an application u/s 151 of Code of Civil Procedure.

2. A suit for eviction was filed by the present applicant on the grounds contemplated u/s 12(1)(a), (b) and (f) of the M.P. Accommodation Control Act, 1961. The suit has been decreed by the trial Court, First Appellate Court and Second Appellate Court. After dismissal of the Second Appeal No. 113 of 2005 by judgment dated 17-3-2009 by this Court, an application u/s 151 was filed by the respondent seeking some time to vacate the suit premises. Even though, time granted in MCC No. 529/2009 for vacation of the suit premises has lapsed, the suit premises have not been vacated in accordance to the decree granted. Hence, this application has been filed for initiating actions for contempt.

3. Applicant wants execution of a decree passed by the Trial Court and affirmed by the First Appellate Court and Second Appellate Court.

3A. Decree has been passed by a competent Court having jurisdiction and therefore proceedings for execution under the CPC can be filed before the Court. When decree and judgment passed can be executed in accordance to the law,

this contempt petition is not maintainable. When the CPC provides for instituting a proceeding for execution of the judgment and decree, then a contempt application under Article 215 read with Section 12 of Contempt of Courts Act is not maintainable as the Statute provides for a mechanism for Execution of the decree passed. In the case of R.N. Dey and Others Vs. Bhagyabati Pramanik and Others, , it is held as under:

7. We may reiterate that the weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the Court is to be exercised for maintenance of the Court's dignity and majesty of law....

8. Further, the decree-holder, who does not take steps to execute the decree in accordance with the procedure prescribed by law, should not be encouraged to invoke contempt jurisdiction of the Court for non-satisfaction of the money decree. In land acquisition cases when a decree is passed the State is in the position of a judgment-debtor and hence the Court should not normally lend help to a party who refuses to take legally provided steps for executing the decree. At any rate, the Court should be slow to haul up officers of the Government for contempt for non-satisfaction of such money decree.

4. In view of the aforesaid, I am of the considered view that contempt proceedings cannot be initiated in the matter, where the statutory provision as contemplated under the CPC permits the petitioner to seek execution of the order.

5. Accordingly, no case is made out for initiating action for contempt. In case petitioner is aggrieved, he can seek execution of the decree in accordance to the law.

6. Application is accordingly, dismissed.