
(1968) 03 MP CK 0024

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 25 of 1967

In Re: Keshrimal Gupta

Date of Decision : 21-03-1968

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Contempt of Courts Act, 1971 — Section 3
Madhya Pradesh Land Revenue Code, 1959 — Section 30(2)

Citation : AIR 1968 MP 232 : (1968) CriLJ 1433 : (1968) JLJ 703 : (1968) 13 MPLJ 507 : (1968) MPLJ 507

Hon'ble Judges : Shiv Dayal, J; R.J. Bhawe, J

Bench : Division Bench

Advocate : V.S. Dabir, for the Appellant; M.V. Tamaskar, Deputy Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

Shiv Dayal, J.

This is a proceeding under the Contempt of Courts Act. Shri M. K. Gautam, Naib-Tahsildar, Mandsaur, by his application dated 7 December 1966 moved this Court for taking action against Keshrimal Gupta for having committed contempt of his Court.

The applicant is a Naib-Tahsildar. The Sub-Divisional Officer, Mandsaur, vide his order dated 14 December 1965. In revenue case No. 90-A/73 of 1965-66, appointed him as Enquiry Officer u/s 30 of the M.P. Land Revenue Code, 1959. The case referred to the applicant was of illegal cutting of a tamarind tree by one Chandanmal son of Nathulal of village Afjalpur. The alleged act of Chandanmal was in violation of Rule 2(iii), framed u/s 240 of the M.P. Land Revenue Code, 1959, liable to be punished u/s 253 of the Code.

The applicant states that in response to a show cause notice, Chandanmal admitted the alleged act of cutting the tamarind tree but pleaded that he had done so at the instance of the Sarpanch Keshrimal Gupta, the contemner. Since the Sarpanch had no authority to grant such permission, he was called upon to

explain it. The contemner was the Sarpanch of Afjalpur Gram Panchayat on that date. The contemner (vide his letter dated 15 April 1966) replied that permission was granted by him u/s 54 of the M.P. Panchayats Act. In his letter, containing the said reply, the contemner employed the following expression also:--

"Is prakar ke shabdon ka prayog karna apko shobha nahin deta. Panchayat sanstha ke uchchadhikari ke sath is prakar ka wyawahar karna ek kanishta wyawahar ka dyotak hai. Mere ko dhons suchak shabdon ka prayog karna apse shaskiva adhikari ke liye punah shobha spad nahin hai."

The applicant then called upon the Sarpanch Keshrimal to show cause why the matter should not be referred u/s 3 of the Contempt of Courts Act. In reply to this show cause notice, the contemner addressed a letter dated 26 July 1966. In which he said thus:--

"Panchayat par khule roop men aap apna nirnay dekar arop laga rahe hain. Kya Prajatantra men ektantra ke sewak ko ck Prajatantrik sanstha par arop lagana aur akshep lagana kahari tak nyaya sangat hai. Iska karan spasta hai ki raksha kosh ki gadbadi ke sambandh men Panchayat men apke liye likha hai. Dusare Afzalpur ke ek bamboo ka sarkari ka prakaran 379 zapta foujdari mujh par apke dwara chalaya gaya aur Nayalaya se kharij ho chuka hai. In sab.karnon se ap badle ki bhawana se yah karyawahi mere virudh ki ja rahi hai jiske liye mukhya mantri mahodaya (Panchayat wibhag) Madhya Pradesh ko alas se niwedan kiya ia raha hai."

in these circumstances, Shri Gautam made this application for taking action against Sarpanch Keshrimal Gupta under the Contempt of Courts Act.

When this matter came up for hearing, the contemner filed a written apology, unqualified and unconditional. He threw himself at the mercy of this Court and prayed to be pardoned,

But the first question is whether the Naib-Tahsildar was a Court when he was acting as an enquiry officer in respect of contravention of Section 240 of the M.P. Land Revenue Code, 1959. The first subsection of Section 240 empowers the State Government to frame rules to prohibit or regulate the cutting of trees. Sub-section (2) empowers the State Government to specify the area to which such rules would apply. Sub-section (3) empowers the State Government further to make rules for regulating the control, management, felling or removal of the forest growth on the lands belonging to the State Government.

Rule 2 of the Rules, framed under that Section reads thus:--

"2. Trees of the following specie;- shall not be cut without the permission in writing of the Collector:--

(i)

(ii)

(iii) Imli (Tamarind)

(iv)

(v)" Rule 6 runs thus:--

"6. Where any Revenue Officer has reason to believe that a tree standing on the land, belonging to the State Government has been cut in contravention of the provisions of these rules, such tree may be seized by or under the order of the Revenue Officer. Where the Revenue Officer is an officer other than the Sub-Divisional Officer, a report of such seizure shall, within fifteen days, be made by him to the Sub-Divisional Officer, for such action as he may deem fit u/s 253 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959)."

Section 253 of the Code provides for punishment for contravention of the provisions of Chapter XVIII of the Code, which comprises Sections 233 to 254. The penalty provided is fine which may extend to one thousand rupees. The authority empowered to inflict the punishment is the Sub-Divisional Officer.

Section 30 of the Code deals with the power to transfer cases to and from subordinates. It consists of two sub-sections. Under the first sub-section, a Collector, a Sub-Divisional Officer, or a Tahsildar may make over any case or class of cases, arising for decision from his own file, to any Revenue Officer subordinate to him competent to decide such case or class of cases. The second sub-section authorises a Commissioner, a Collector, a Sub-Divisional Officer, or a Tahsildar to make over for inquiry and report any case or class of cases, arising under the provisions of the Code or any other enactment for the time being in force from his own file to any Revenue Officer subordinate to him.

From these provisions, it is quite clear that the proceeding before the applicant Naib-Tahsildar was not u/s 253 of the M, P. Land Revenue Code, because under that section, it is the Sub-Divisional Officer, who is the competent authority to punish the offender. He also could not be deemed to be acting under subsection (1) of Section 30, because he was not competent to decide the case.

Thus, the applicant Naib-Tahsildar was merely holding an inquiry which was made over to him for inquiry and report by the Sub-Divisional Officer in exercise of his powers u/s 30(2) of the Code. This is also clear from the report of the applicant Naib-Tahsildar made to this Court.

For the purposes of Section 3 of the Contempt of Courts Act, the expression "Courts subordinate to the High Courts" means the Courts of law subordinate to the High Courts in the hierarchy of Courts established for the purpose of administration of justice throughout the Union. (See *Brajnandan Sinha Vs. Jyoti Narain*,).

in order to constitute a Court, it is essential that apart from having some of the "trappings of a judicial tribunal, there must be power to give a decision or a definitive; judgment which has finality and authoritativeness which are the

essential tests of a judicial pronouncement. (See The Bharat Bank Ltd., Delhi Vs. Employees of the Bharat Bank Ltd., Delhi and The Bharat Bank Employees' Union, Delhi, ; Maqbool Hussain Vs. The State of Bombay, ; S.A. Venkataraman Vs. The Union of India (UOI) and Another,).

For these reasons we are clearly of the view that a Revenue Officer to whom any case or class of cases, arising under the provisions of the M.P. Land Revenue Code, has been made over for Inquiry and report u/s 30(2) of that Code, is not a Court within the meaning of Section 3 of the Contempt of Courts Act.

in that view of the matter, this proceeding is dropped. There shall be no order for paper-book costs.