
(1998) 09 P&H CK 0099

In the Punjab And Haryana At Chandigarh

Case No : Civil Original Contempt Petition No. 65 of 1997

Jai Parkash

APPELLANT

Vs

Ram Kishan Gupta

RESPONDENT

Date of Decision : 22-09-1998

Acts Referred:

Citation : (1998) 4 RCR(Civil) 387

Hon'ble Judges : N.K.Sodhi, J

Advocate : Mr. Jaswant Jain, Advocate., Advocates for appearing Parties

Judgement

N.K. Sodhi, J.

1. Dadri Education Society, Charkhi Dadri, District Bhiwani (for short the Society) has about 800 life members and was registered on 14.2.1961 as a Society. The main object of the Society is to run educational institutions and hospitals for the benefit of the residents of the area. It is running a few educational institutions and hospitals in and around Charkhi Dadri. Petitioners 1 to 3 and respondent 1 are life members of the Society and respondent 1 is the President from its inception. It is alleged that respondent 1 who has been a Member of Parliament three times belongs to the ruling party in Haryana and with a view to have complete control over the properties and management of the Society he wanted to dissolve the same and merge it in a Trust known as Dadri Education Trust (hereinafter referred to as Trust) which is exclusively controlled by the said respondent. A meeting of the Working Committee of the Society was held on 8.9.1996 in which a resolution is said to have been passed to dissolve the Society and merge the same with the Trust. Thereafter a special meeting of the general body of the Society was convened for 29.12.1996 to consider a resolution regarding the winding up of the Society and its merger with the Trust as passed by the Working Committee on 8.9.1996. A notice dated 1.11.1996 in this regard was issued by the Society to all its members informing them that a general body meeting would be held on 29.12.1996 at 11.00 A.M. in the J.V.M.R.R. College Library. With a view to prevent the respondents and the

Society from passing the aforesaid resolution in the general body meeting the petitioners filed CWP 19664 of 1996 in this court challenging the notice dated 1.11.1996. The writ petition came up for motion hearing on 20.12.1996 before a Division Bench. While issuing notice of motion for February 6, 1997 the operation of the impugned notice dated 1.11.1996 was stayed meanwhile. The writ petition is still pending. A news item appeared in 'Dainik Jagran', a Hindi newspaper, on 26.12.1996 to the effect that the holding of the general body meeting of the Society scheduled for 29.12.1996 had been stayed by this court. It is stated that this newspaper has wide circulation in and around Charkhi Dadri. A news item to the same effect also appeared in the 'Dainik Tribune' and 'Navbharat Times' on 29.12.1996. It is not in dispute that the petitioners obtained a certified copy of the order of the Motion Bench on 21.12.1996 and it is alleged that the respondents were informed before the meeting about the stay order having been granted by this court. The grievance of the petitioners is that in spite of the knowledge of the stay order the respondents held the meeting on 29.12.1996 at the residence of respondent 1 and passed a resolution of merger in that meeting whereby they wilfully disregarded the stay order granted by this court. It is further averred that the respondents have committed contempt of court and the prayer made is that they be summoned and punished according to law.

2. In the written statement filed by the respondents the allegations made in the petition have been controverted and it is alleged that the contempt petition is an abuse of the process of the court designed to pressurise the respondents. It is averred that the respondents had no knowledge or information about the stay order passed by this court nor was the stay order ever brought to their notice either by the petitioners or by anyone else. It is stated that notice from this court in the writ petition was received by the Society in its office on 10.1.1997 and it was then that the respondents came to know of the stay order for the first time. It is also averred that respondent 1 had been admitted as an indoor patient in Ram Manohar Lohia Hospital, New Delhi from 4.12.1996 to 28.12.1996 as per C.R. No. 42929 and that he was discharged only on 28.12.1996 and that he had no knowledge of the stay order passed by this Court till it was received by the Society on 10.1.1997.

3. What indisputably emerges from the rival stands of the parties is that this court stayed the operation of the notice dated 1.11.1996 on 20.12.1996 and that a certified copy of the order was obtained by the petitioners on 21.12.1996 and that the respondents held the meeting on 29.12.1996 which was presided over by respondent 1 and respondent 2 was present therein. The dispute really is whether the respondents had knowledge of the order passed by this court before the meeting. Since this issue could not be decided without an inquiry the case was remitted to the Civil Judge (Sr. Divn.), Bhiwani with a direction to ascertain whether the respondents had knowledge of the order dated 20.12.1996 passed by this court in CWP 19664 of 1996 before the decision was taken in the meeting held on 29.12.1996. He was directed to give an opportunity to the parties to lead evidence in support of their contentions. After recording the evidence of the

parties and on a consideration thereof the Civil Judge has submitted his report in which he has found that the respondents had knowledge of the stay order passed by this court before the meeting was held on 29.12.1996.

4. Shri O.P. Goyal, learned Senior Advocate appearing for respondent 1 strenuously urged that the findings recorded by the Civil Judge are contrary to the evidence led by the parties and that the same are perverse and should not be accepted by this court and that the respondent had no knowledge of the order passed by this court before the meeting was held on 29.12.1996. According to the counsel, respondent 1 has not committed any contempt and that the petition deserves to be dismissed. Having given my thoughtful consideration to the contentions advanced by the learned counsel for respondent 1 and after going through the evidence recorded by the Civil Judge, I find no merit in the contentions of Shri O.P. Goyal. The findings of the learned Civil Judge are based on the evidence led by the parties and I find no ground to differ with those findings. It clearly emerges from the statements of the witnesses that petitioner 1 after obtaining a certified copy of the order on 21.12.1996 reached Charkhi Dadri on 22.12.1996 and informed respondent 2 personally about the stay order having been passed by this court. This respondent refused to accept a copy of the order and instead told the petitioner to serve a copy of the order on the President (respondent 1). Petitioner 1 then sent three photocopies with forwarding letters dated 24.12.1996 to the Society, Director Higher Education Chandigarh and the President of the Soccity. On 26.12.1996 petitioner 1 along with some others met respondent 2 at his office and tried to deliver a copy of the order dated 20.12.1996 but he refused to accept the same. Since the courts were closed during the winter recess petitioner 1 went to the S.D.M. Dadri and requested him to serve a copy of the order on the respondents. It is further clear from the evidence that the S.D.M. deputed his peon to effect service of the order on the respondents and he (Peon PW3) affixed a copy of the order at the office of the society on 27.12.1996 because the office of the society was closed and a report to this effect was entered in the dak book. Petitioners 1 and 3 also went to the office of the society on 28.12.1996 and affixed a copy of the order outside the office. They also affixed a copy of the order outside the Library Hall of J.V.M.R.R. College on 29.12.1996 at 9 AM where the meeting was scheduled to be held at 11 AM. It is also in evidence that respondent 1 remained admitted in the hospital at New Delhi as an indoor patient from 4.12.1996 to 28.12.1996 and that on being discharged he went to Charkhi Dadri on 29.12.1996 to attend the meeting and reached the Library Hall before the start of the meeting where too the copy of the stay order had been affixed. While appearing as RW7 he has stated that no one informed him about the stay order though he admits that the petitioners were also present outside the Library Hall before the commencement of the meeting. It is not believable that the petitioners who left no stone unturned to serve the respondents with the stay order and had even got the same served by affixation through the intervention of the S.D.M. would have kept quiet and not informed the respondents about the same. The Civil Judge in

his report has rightly concluded that both the respondents were aware of the stay order passed by this court before the meeting commenced and no fault can be found with that finding as the same finds ample support from the evidence led by the parties. Moreover, the news items appeared in the Dainik Jagran on 26.12.1996 and in the Dainik Tribune and Navbharat Times on 29.12.1996 which have large circulation in the area. In this view of the matter, I have no hesitation to hold that the respondents were aware of the stay order passed by this court before the commencement of the meeting and that they wilfully flouted the same when they held the meeting on 29.12.1996. They are, thus, beyond any manner of doubt guilty of contempt of court. It is unfortunate that respondent 1 who has been a member of Parliament three times and is expected to have respect for court orders chose to wilfully disregard the same and his conduct cannot but be deprecated. He should have acted in a more responsible manner and having known that this court had stayed the operation of the notice issued by the society he should have refrained from holding the meeting. It appears that he was so determined to merge the society with the Trust and to hold the meeting for that purpose that he despite the knowledge of the stay order passed by this Court did hold the meeting unmindful of any consequences thereby trying to make the writ petition infructuous. In these circumstances, the respondents do not deserve any leniency. They are punished with simple imprisonment for a term of three months each and also with fine of Rs. 2,000/ each and if default is made in payment thereof they shall undergo imprisonment for another term of fifteen days. In case the fine is recovered the same shall be paid to the petitioners by way of compensation. The contempt petition thus stands allowed with costs which are assessed at Rs. 20,000/ to be shared by the respondents equally.

5. There is yet another aspect of the matter which cannot be lost sight of. The contemnors, no doubt, have been punished but they cannot be allowed to reap the fruit of the contempt committed by them. In order to merge the Society with the Trust, the respondents went even to the extent of flouting the court order by holding the meeting in spite of the restraint order. The ends of justice require in the circumstances of this case that the respondents should not be allowed to take advantage of their own wrong and that the wrongful act done by them should be undone. This court while exercising contempt jurisdiction has ample powers to issue such ancillary directions as may be necessary to ensure the implementation of the order the violation of which has been committed. The view that I have taken in regard to the issue of ancillary directions in proceedings for contempt finds support from the observations of their Lordships of the Supreme Court in Mohammad Idris and another v. Rustam Jehangir Bapuji and others, AIR 1984 SC 1826 which are reproduced hereunder :

"..... and that in any case the learned Single Judge was not justified in giving certain directions in addition to punishing the petitioners for contempt of court. We find no substance in the submissions made by the learned counsel. There was a clear breach of the undertaking given by the petitioners and we are of the

opinion that the Single Judge was quite right in giving appropriate directions to close the breach."

It is, therefore, declared that the resolution passed by the general body of the Society in its meeting held on 29.12.1996 merging the Society with the Trust stands annulled and shall be of no consequence. The status of the parties will thus be what it was prior to the passing of the stay order on 20.12.1996. The society will of course, be at liberty to hold a similar meeting for the same purpose if so permitted by this court in the writ petition.