

(2021) 01 KL CK 0302

In the High Court Of Kerala

Case No : Contempt Of Court Case (Civil) No. 2661 Of 2019, Writ Petition (C)
No. 6336 Of 2018

Jesudasan K

APPELLANT

Vs

S. Suhas

RESPONDENT

Date of Decision : 12-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0302

Hon'ble Judges : Shaji P. Chaly, J

Bench : Single Bench

Advocate : P.K. Ravi Sankar, K.V. Sohan

Judgement

1. This contempt petition is filed complaining that the directives contained in the judgment dated 26.03.2018 in W.P.(C) No.6336 of 2018 is not

complied with.

2. Having not complied with the directions inspite of various postings, an order was passed by this Court on 17.12.2020, which reads thus:-

An order was passed by this Court on 30.11.2020, which reads as follows:-

This contempt case is filed complaining that the directives contained in the judgment dated 26.03.2018 in W.P.(C) No.6336 of 2018 is not

complied with.

2. An order was passed on 11.11.2020, on the basis of the submission made by the learned State Attorney Sri.K.V.Sohan, that the

respondent is prepared to pay balance 20% on satisfactory conditions to be incorporated in the agreement for receiving balance 20%.

Accordingly, the State Attorney was directed to file an affidavit before this Court.

3. Today, when the matter is taken up for consideration, learned State Attorney

sought time. However, fact remains, the direction contained in the judgment has two parts: (1) to pass an award on the basis of the acquisition of the property and (2) to pay 20% of the balance amount due to the writ petitioners on account of the acquisition made.

4. In my considered opinion, for payment of 20%, insistence of conditions may not be proper, since it is an amount actually due to the writ petitioners. The dispute is with regard to the passing of the award on the basis of an agreement executed by and between the parties. That is a matter to be considered in a later point of time.

Accordingly, there will be a direction to the respondent to pay 20% of the amount due to the writ petitioners and place an affidavit before this Court accordingly

2. In effect there was a direction to the respondent to pay 20% of the balance amount due to the writ petitioners and place an affidavit

before this Court. An affidavit is filed by the respondent stating that one of the petitioners namely, Treasa Xavier, who is the legal heir of

late Xavier, died on 24.08.2020, and therefore submitted that the amount could not be released as directed by this Court. Other aspects are

also put forth in the affidavit. Fact remains, the direction issued by this Court is not complied with. However, learned State Attorney,

Sri.K.V.Sohan, submitted that already State has preferred an appeal along with delay and the matter has not come up before the Division

Bench for admission.

3. Having heard respective counsel across the Bar, and realising that peremptory directions were issued by this Court in the judgment in

question, the District Collector ought to have complied with the same, instead of justifying his action for not complying with two directions.

Therefore in my considered opinion, there is contempt of the judgment rendered by this Court.

4. Taking note of the fact that, the appeal is preferred, I think that some time can be given and failing to secure any orders in the appeal,

the respondent can be directed to be present before this Court. Accordingly, the respondent is directed to be present before this Court on

12.01.2021. However, I make it clear that if the State is able to secure any orders in the appeal or the directions contained in the judgement

is complied with, the direction to appear before this Court will stand dispensed with. Post on 12.01.2021.â??

3. Today when the matter is taken up, an affidavit is filed before this Court by the respondent as per the directions contained as above, from where I

am satisfied that the 20% of the amount as directed in the judgment is paid, in addition to the 80% already paid to the contempt petitioner. Learned

counsel for the petitioner submitted that, the situation would suffice if the submission is recorded and the contempt petition is disposed of accordingly.

4. Therefore, the contempt petition is disposed of recording that, the entire payment due as per the directions in the writ petition is paid to the petitioner

and an award would be passed by the respondent, at the earliest, and at any rate, within one month from today.

However, I make it clear that, if the award is not passed as is directed above, petitioner would be at liberty to re-open his contempt petition.