

(2020) 08 RAJ CK 0025

In the Rajasthan High Court

Case No : Civil Contempt Petition No. 565 Of 2016

Kailash Chand And Othrs

APPELLANT

Vs

Suchi Tyagi And Others

RESPONDENT

Date of Decision : 06-08-2020

Acts Referred:

Citation : (2020) 08 RAJ CK 0025

Hon'ble Judges : Sanjeev Prakash Sharma, J

Bench : Single Bench

Advocate : Sudesh Bansal, Sandeep Pathak, Anuroop Singhi

Final Decision : Dismissed

Judgement

The petitioner has preferred this contempt petition alleging non-compliance of the court's order dated 4th January, 2016. By the said order, the court passed the following order:

Having regard to the facts aforesaid, the appeal is disposed of with direction that the respondents shall not dispossess the appellants from the land in dispute, except by due process of law by either lawfully acquiring the land and paying adequate compensation to the appellants or otherwise taking the said land by negotiation. Stay application also stands disposed of.

Learned counsel submits that instead of court's order, the respondents proceeded to take possession of the property and even initiated land acquisition proceedings upto that date. However, he submits that later on negotiations took place and amount has also been assessed. Neither award has been passed nor compensation has been paid to the petitioner.

The respondent-National Highway Authority of India ("NHAI") has filed reply and has stated as under:

That the ""land in question"" was not in possession of the petitioner on the date of passing of the judgment dated 4.1.2016 and even prior thereto. It is

submitted that in the civil suit filed by the petitioner, it has been clearly stated that Nagarpalika in the year 2009 has closed/filled the pre-existing 'well'

at the site in question. Upon filing of the civil suit, the challenge was made to the actions of the Nagarpalika and NHAI was subsequently impleaded

as party to the Civil Suit. The learned Additional District Judge dismissed the T.I. Application vide order dated 16.10.2015 and thereafter, the

construction of the road was undertaken by the contractor of the NHAI from 12.12.2015 to 25.12.2015. The Request for Inspection (RFI) submitted

by the contractor shows that the entire work at chainage 184/000 to 184/500 km was completed from 12.12.2015 to 25.12.2015, i.e. much prior to the

passing of the Judgment dated 4.01.2016. Copies of the Complaint filed before learned trial court and RFIs dated 12.12.2015 to 25.12.2015 are collectively

annexed herewith and marked as Annexure-R/3/3 & R/3/4.

No rejoinder to the said reply has been filed. In view thereof, it is apparent that the possession was not with the petitioner as on the day when the

order was passed on 4 th January, 2016 and this fact was not brought to the notice of the court. However, this court finds that in the order passed by

this court dated 4 th January, 2016, the court has noticed the stand of the NHAI as under:

Mr. Sandeep Pathak, learned counsel for Respondent No.4 has submitted that National Highway Authority of India would proceed to raise

construction of road on the disputed land only if it is lawfully acquired or is otherwise lawfully handed over by local body concerned, which in this case

is Municipal Council, Dholpur."" Thus, it is apparent that the Officer of NHAI has submitted a false affidavit before this court in reply to the contempt

petition as noticed above and therefore, he would be required to give an explanation thereto.

Let the concerned Officer/deponent of NHAI, who has filed the affidavit, remain present in the court on the next date. The present incumbent holding

the post shall also remain present in the court on the next date.

This court also notices that while the court passed the order not to dispossess the petitioner, he has been dispossessed.

Let the Commissioner, Municipal Council, Dholpur also remain present in the

court on the next date.

List this case again on 19th August, 2020.