

(2021) 07 TEL CK 0071
In the Telangana High Court
Case No : Contempt Case No. 618 Of 2019

Mohd. Sirajuddin, R.R.Dist. 9 Others Vs R.Shobha, I.F.S.

Date of Decision : 30-07-2021

Acts Referred:

Andhra Pradesh Forest Act, 1967 — Section 4
Contempt Of Courts Act, 1971 — Section 10, 11, 12

Citation : (2021) 07 TEL CK 0071

Hon'ble Judges : T. Amarnath Goud, J

Bench : Single Bench

Advocate : O Manohar Reddy

Final Decision : Allowed

Judgement

1 Alleging willful disobedience to the orders dated 04.12.2009 passed in Writ Petition No.9526 of 2009, by the respondents, the petitioners filed the present Contempt Case.

2 Succinctly, the case of the petitioners was that the petitioners are owners of land admeasuring Ac.383-00 in Sy.Nos.222/1 to 222/20 of

Maheshwaram village and Mandal, Ranga Reddy District. The forest officials initiated action under A.P. Forest Act, 1967, to declare the subject

property as Reserve Forest. However, the Forest Settlement Officer, Hyderabad addressed a letter dated 08.01.2008 to the District Collector, Ranga

Reddy District, pointing out that it was not feasible to carryout the proceedings further and that the land be excluded from the proposals of converting

into a Reserve Forest. Since their rights were in jeopardy, the petitioners filed the Writ Petition No.9526 of 2009 seeking a writ of mandamus declaring

the inaction on the part of the respondents in taking any action on letter dated 08.01.2008 issued by the sixth respondent as illegal and consequently

sought a direction to the respondents to take appropriate action on the letter

dated 08.01.2008 within two months from the date of date of disposal of the Writ Petition or in the alternative direct the respondents to handover possession of the subject property to the petitioners and such other ancillary reliefs.

3 After hearing both sides, the above Writ Petition was disposed of with direction to the respondents in the Writ Petition to finalize the issue relating to

the acquisition of the land referred to above within a period of six months from the date of receipt of a copy of the order. The grievance of the

petitioners is that though they were meeting the respondent authorities, they were advised to wait for some time in view of the bifurcation of the State.

However, even after division of the State, the respondent authorities have not taken any decision in the matter. In anticipation of the completion of the

formalities the possession was already taken over, but no steps under the provisions of the Right to Fair Compensation and Transparency in Land,

Rehabilitation and Resettlement Act, 2013 or Forest Act have been taken yet. In addition to that the respondent authorities are also required to pay for

the occupation of the land as the petitioners were deprived of the same. Hence the petitioners got issued a legal notice to the respondent authorities on

02.7.2015, but no reply was given nor any action was taken. Hence the present Contempt Case.

4 The erstwhile High Court of Andhra Pradesh, Hyderabad, by order dated 04.12.2009 disposed of the above Writ Petition directing the respondent

authorities to finalize the issue relating to the acquisition of the subject land for the purpose of conversion thereto into Reserve Forest, within a period

of six months from the date of receipt of a copy of the order.

5 The Divisional Forest Officer, Hyderabad, the third respondent in the Contempt Case filed counter stating that according to the Sethwar 1932 of the

village, the land comprising of Sy.No.222 of an extent of 383-00 guntas is a Kancha as such the land was in the custody of the Forest Department

since then. It is further submitted that the petitionersâ?? predecessors have by fraudulent means got the land classification changed as patta which

was given rise to the litigation, but the fact remains that the land has been in continuous and uninterrupted possession and management of the Forest

Department for about 80 years and the same is reflected in the village record. It is further submitted that the Forest Settlement Officer is the statutory

authority to decide the claims over the lands which are included in a proposed Reserve Forest Block and the claim petition of the petitioners was

pending before the Forest Settlement Officer, who after holding enquiry and after due verification of the Forest & Revenue records, found that the

said lands are declared by the petitioners under the Land Ceiling Act. Against the said order, an appeal was filed before the Land Reforms Appellate

Tribunal and that the Tribunal in its order dated 06.4.1978 directed to delete an extent of Ac.340-78 Gts in Sy.No.222, while computing the holding of

the petitioners. The claim of the petitioners was rejected by the Forest Settlement Officer vide proceedings dated 23.4.2010 and when that order was

sought to be served on the petitioners, they were not available in the village. It is further submitted that though the names of the petitioners was

recorded in Khasra Pahani and entries in the revenue records are contrary to evidence on record and are not conclusive. The sixth respondent, taking

all this into consideration, passed the above order dated 23.4.2010 in compliance of the orders passed by the Honâ??ble Court in the above Writ

Petition. It is further submitted that inasmuch as the order of the Honâ??ble Court was complied with by disposing off the claim of the petitioners, the

Contempt Case may be closed.

6 Heard Sri O. Manohar Reddy, learned counsel appearing for the petitioners and the learned Advocate General appearing for the Contemnors.

7 The learned counsel for the petitioners submitted that the Divisional Forest Officer, Hyderabad vide letter dated 22.6.1967 submitted notification

proposals under Section 4 of the A.P. Forest Act, 1967 to the Conservator of Forests over an area of 383 acres of patta land in Sy.No.222/1 to 222/10

of Maisaram village. The Conservator of Forests, vide letter dated 05.8.1968 submitted proposals to the Chief Conservator of Forests, the second

respondent, for approval to which the second respondent accorded permission to take action under Section 4 of the Forest Act. Thereafter the fourth

respondent, vide letter dated 02.7.1973 addressed the District Collector clarifying that the proposals were already referred to the Conservator of

Forests and Chief Conservator of Forests for approval for reserving the forest block. Subsequently the fourth respondent submitted reservation

proposals supplying omissions for his approval. The MRO, Maheswaram, vide letter dated 07.9.1989 submitted report to the Revenue Divisional

Officer, Hyderabad East, with a copy marked to the fourth respondent setting out that the land in Sy.Nos.222/1 to 222/20 comprising of 348.14 guntas

was under occupation of Forest Department for the last 20 years. The MRO also pointed out non-filing of declaration under the Land Reforms Act.

Thereupon, the fourth respondent vide letter dated 26.9.1994 resubmitted the reservation proposals in respect of 383 acres which were approved by

the District Collector on 26.9.1994 and forwarded to the Chief Conservator of Forests on 03.10.1995. Thereafter on submission by the Chief

Conservator of Forests, the Government vide G.O.Ms.No.1 dated 04.1.1999 approved the notification proposals and the same was published in the

A.P. Gazette on 28.01.1999 and in R.R. District Gazette on 23.7.1999. However, the Forest Settlement Officer also in the notification dated 28.9.1999

published in Telugu as Patta land and in English as Poramboke. On 29.7.2000, the Forest Settlement Officer submitted preliminary valuation certificate

for payment of compensation. On 19.10.2000, the District Collector, Ranga Reddy District sought for a clarification as to whether the lands are

poramboke or patta lands. A detailed report after enquiry was sent to the District Collector by the MRO clarifying that the lands are patta lands under

his letter dated 23.11.2000.

8 The learned counsel for the petitioners further submitted that the fourth respondent addressed a letter dated 28.11.2000 to the District Collector

setting out the above facts and requested to allot 383 acres of land under land bank of R.R. District to avoid huge compensation to the pattadars and

also to ensure exchange. He further submitted that on 08.01.2008, the Forest Settlement Officer addressed to the District Collector, Ranga Reddy

District and concluded that the lands are patta lands but not forest lands and to exclude the same from the Forest Act as they do not attract the

provisions of the Forest Act, recommended exclusion of the said lands from the proposals of forest block and requested the authorities to look into the

matter immediately. But no decision was taken on that.

9 The learned counsel for the petitioners further submitted that as could be seen from the counter affidavit filed by the respondents in the Writ Petition

itself that the respondents admitted the proposals for acquiring the land under Land Acquisition Act were also initiated and the compensation to be

paid to the petitioners worked out to Rs.1,14,84,687/-. This fact itself shows that

the respondents have flouted the orders of this Honâ??ble Court in the Writ Petition No.9526 of 2009 and prayed to punish the respondents under the Contempt of Courts Act. The learned counsel for the petitioners relied on the following judgment:

- a) Midnapore Peoplesâ?? Coop. Bank Ltd Vs. Chunilal Nanda (2006) 5 SCC 399,
- b) J.S. Parihar vs. Ganpat Duggar (1996) 6 SCC 291,
- c) Lalith Mathur Vs. L.Maheshwara Rao (2000) 10 SCC 285,
- d) Chhotu Ram Vs. Urvashi Gulati (2001) 7 SCC 530,
- e) Dr. Subhendu Sen Vs. Pradeep Kumar (2011) SCC OnLine AP 132,
- f) Rama Narang Vs. Ramesh Narang (2021) SCC OnLine SC 29,
- g) Gadda Balaiah Vs. Joint Collector, Ranga Reddy District 2013 SCC OnLine AP 762

10 In reply, the learned Advocate General appearing for the respondents submitted that the letter dated 08.01.2008 addressed by the Forest Settlement

Officer is without examining the factual aspects in relation to the subject land as to whether the property was allegedly owned by the petitioners and

whether it was subject to any ceiling laws. The learned Advocate General further submitted that in view of the orders dated 07.02.2009 passed in

W.P.Nos.21771 of 2008 and 1980 of 2008, the letter dated 08.01.2008 of the Forest Settlement Officer is not determination of the so-called rights of

the petitioners. He further submitted that upon perusal of the entire records, the extent of land Ac.348-78 cents in Sy.No.222/1 to 222/20 of

Maheswaram village have been deleted from the holding of pattadars and the District Forest Officer vide letter dated 18.8.1999 has also confirmed

that the subject land is surplus land in the possession of the Forest Department. Therefore, it is found that the payment of cash compensation or

providing land to land does not arise. He further submitted that the Forest Settlement Officer by order dated 03.6.2010 further passed orders rejecting

the claim of the claimants holding that the subject land is declared as surplus land under the Ceiling Act, however, the orders dated 23.4.2010 and

03.6.2010 could not be served on the claimants physically as the addressee was not found in their house.

11 The learned Advocate General further submitted that the petitioners having filed their declarations as to their land holding adjudicated by the Land

Reforms Appellate Tribunal have suppressed the fact before this Court. He further submitted that the factum of ownership of land was not dealt in

the Writ Petition. He further submitted that the subject land under sethwar of the year 1932 was recorded in the revenue records as poramboke

kancha. However, in the Khasra pahani the land was recorded as patta land. But no corresponding record as to how the poramboke kancha is

converted into a patta land is available. He further submitted that the Land Reforms Appellate Tribunal has already excluded the subject land from the

holding of the so-called pattadar namely Md. Sirajuddin. Therefore, there is no requirement of initiating proceedings so as to determine the right or

other entitlement of any person.

12 The learned Advocate General further submitted that the petitioners cannot rely upon the internal correspondence or the notings and thereby setup

any right. He further submitted that the contempt proceedings initiated after five years, ex facie, barred by limitation and there is no concept of

continuation of cause of action in the given case so as to invoke the contempt jurisdiction by the petitioners. In support of his contentions, the learned

Advocate General relied on the following judgments:

i) Shanti Sports Club Vs. Union of India (2009) 15 SCC 705,

ii) Bachhitar Singh Vs. State of Punjab AIR 1963 SC 395

13 The prayer in this Contempt Case reads as follows:

“For the reasons stated in the accompanying affidavit, the petitioners herein pray that this Hon’ble Court may be pleased to punish the

respondents for willful and deliberate disobedience of the orders dt.04.12.2009 passed by this Hon’ble Court in WP No.9526 of 2009 and pass

such other order or orders as this Hon’ble Court may deem fit and proper in the interest of justice and circumstances of the case.

14 Sections 10 to 12 of the Contempt of Courts Act read as under:

10. Power of High Court to punish contempts of subordinate courts.

Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect

of contempt of courts subordinate to it as it has and exercises in respect of contempts of itself:

11. Power of High Court to try offences committed or offenders found outside

jurisdiction.

A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have

been committed within or outside the local limits the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits.

12. Punishment for contempt of Court.

(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term

which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

15 In the light of the above legal position and the prayer sought by the petitioners, let me discuss whether there is any contempt committed by the respondent authorities.

16 Admittedly, W.P.No.30573 of 1997 filed by the petitioners was disposed of on 07.8.1998 with a direction to initiate land acquisition proceedings

since there was an admission on the part of the respondent authorities that Forest department that it is in possession of the subject lands. In pursuance

of the orders passed in the above Writ Petition, a notification under Section 4 of the A.P. Forest Act, 1967, vide G.O.Ms.No.1 dated 04.01.1999, was

issued. The same was also published in the gazette on 28.01.1999 followed by a Notification dated 29.9.1999.

17 W.P.Nos.21771 of 2008 and 1980 of 2009 filed third parties, wherein the petitioners herein are respondents, were dismissed on 27.02.2009

directing the Government to initiate acquisition proceedings. As per the observations made in the common order passed in these two Writ Petitions, the

subject matter of the entire notification was only a patta land. Thereafter the Writ Petition No.9526 of 2009 filed by the petitioners was also disposed

of directing the Government to finalize the issue relating to the acquisition of the land in Sy.No.222/1 to 222/20 of Maheshwaram Village, Ranga

Reddy District for the purpose of conversion into Reserve Forest. Therefore, in all the above Writ Petitions the Government was directed to pass

orders and the same became final. At no point of time the orders of the learned single Judge were challenged by way of writ appeal.

18 The grievance of the petitioners is that even after the disposal of the Writ

Petition No. 9526 of 2009 though they were meeting the respondent authorities, they were advised to wait for some time in view of the bifurcation of the State. However, even after division of the State, the respondent authorities have not taken any decision in the matter nor did they pay for the occupation of the land as the petitioners were deprived of the same.

19 On 22.7.2021 Smt. A. Santha Kumari, Special Chief Secretary and Mr. Janaki Ram, D.F.O. Ranga Reddy were present and they adopted the affidavit filed by their predecessors and that they stick on to the contentions of the learned Advocate General, who represented before this Court in the present Contempt Case. In nutshell they submitted that they have not violated the Court orders and prayed to dismiss the Contempt Case.

20 It is pertinent to note that even as per the counter affidavit filed by the respondents in the Writ Petition, the respondents admitted the proposals for acquiring the land under Land Acquisition Act were also initiated and the compensation to be paid to the petitioners worked out to Rs.1,14,84,687/-.

21 It is also to be noted that when the Forest Settlement Officer, Hyderabad addressed a letter on 08.01.2008 to the District Collector, Ranga Reddy pointing out that it was not feasible to carry out the proposal into a Reserve Forest, the respondent authorities have not taken any steps in that regard. Hence the petitioners were constrained to file Writ Petition No.9526 of 2009 seeking a direction to the respondent authorities either to take action on the letter dated 08.01.2009 of the Forest Settlement Officer or to direct the respondent authorities to handover the possession of the land to the petitioners. When that Writ Petition was disposed of positively, directing the Government to finalize the issue relating to acquisition of the land referred to above within a period of six months, no favourable action has been initiated thereon. Further, the respondent authorities have also not paid any amounts to the petitioners for the occupation of the land for all the years.

22 In view of the above facts and circumstances of the case, this Court is of the considered opinion that the respondent authorities have not strictly implemented the order passed by this Court in Writ Petition No.9526 of 2009 dated 04.12.2009.

23 In that view of the matter, the respondents are liable for punishment under Sections 10 to 12 of the Contempt of Courts Act. Accordingly, they are sentenced to simple imprisonment for a period of six months and also to pay a

fine of Rs.2,000/- each.

24 Accordingly the Contempt Case is allowed.