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**(1990) 10 KAR CK 0061**  
**In the Karnataka High Court**  
**Case No : C.C.C. No. 294 of 1989**

Prof. S. Dhawan

APPELLANT

Vs

Sri Dattaguru Sadananda Spiritual and Meditation Centre

RESPONDENT

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**Date of Decision :** 11-10-1990

**Acts Referred:**

Bangalore Development Authority Act, 1976 — Section 2 (bb) (iv)  
Constitution of India, 1950 — Article 136, 141, 226  
Contempt of Courts Act, 1971 — Section 12

**Citation :** (1990) ILR (Kar) 4126

**Hon'ble Judges :** S. Mohan, C.J.; M. Ramakrishna, J

**Bench :** Division Bench

**Advocate :** Ashol B. Patil, for the Appellant; B.P. Holla, for R-1 to 4 and 6, Ravivarma Kumar, for R-5, H.B. Datar, for K.S. Desai, for R-7 and HCGP for R-8, for the Respondent

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## Judgement

Mohan, C.J.—This case raises interesting questions where force of law is tested.

2, With this prefatory remark, we proceed to analyse the events which have led to the complaint. The complainants before us along with some other residents of the area in question filed W.P.No. 20541 of 1984 before this Court. In the Writ Petition, the validity of the resolution of the Bangalore Development Authority dated 1-12-1983 passed at its 29th meeting was questioned. That resolution purported to allot a Civic Amenity site situate in Chakravarthi Lay-out in favour of Sri Dattaguru Sandananda Spiritual and Meditation Centre represented by its Managing Trustee, respondent-1 herein (respondent-3 in the Writ Petition). The object of the allotment was to construct a building purporting for prayer and meditation. Inter-alia the petitioners in the Writ Petition also sought a declaration that the sanction accorded by the B.D.A. on 11-10-1984 for the construction of the building on the aforesaid site was null and void. During the pendency of the Writ Petition, an application was filed by respondent-1 herein (respondent-3 in the Writ Petition). On the undertaking given by it, It was permitted to proceed with the construction. The conditions of the order dated 19-4-1985 read as

follows:-

"The 3rd respondent has filed a memo today giving an undertaking to the Court in the following terms:

Herein, the third respondent submits as under:

The petitioners have challenged the order of the 2nd respondent-Bangalore Development Authority allotting the C.A. site to this respondent in Chakravarthy Layout and has obtained interim orders whereby the 3rd respondent is prevented from putting up the proposed construction of prayer hall and meditation centre. The plans were sanctioned on 11-10-1984 and this respondent has also purchased cement and other materials for the purpose of proposed construction.

Now the prices of all building materials particularly steel and cement have been going up. This respondent therefore prays that this Hon''ble Court may kindly be pleased to permit this respondent to put up the proposed building as per the sanctioned plan since rainy season would fast approach at the end of May.

This respondent hereby gives an unconditional undertaking to this Hon''ble Court that in the event of the Writ Petitioners succeeding in this petition, this respondent will pull down the entire building and restore the said C.A. site to its original position without in any way invoking or pleading for equity. This respondent further undertakes to comply with any direction that may be issued by this Hon''ble Court in this regard."

3. Ultimately when the Writ Petition was finally disposed of, our learned brother Justice Swami held as follows:-

"For the reasons stated above, the Writ Petition is allowed. The allotment of the civic amenity site in question made in favour of the 3rd respondent on lease for construction purpose under the resolution of the B.D.A. dated 1-12-1983 passed in subject No. 416 and communicated on 21-7-1984 in No. TPM/353/84-85 is hereby quashed. The building licence granted by the B.D.A. to the 3rd respondent for construction in No. BDA.TPM.Di.CA3/84-85 dated 11-10-1984 is also hereby quashed. The 3rd respondent is directed to restore the site to its original position after removing the construction if any put up by it on the site in question. The 3rd respondent is further directed not to proceed with the construction on the site in question. Compliance in three months."

4. This Writ Petition was allowed on 27-7-1985. Thereupon, the present respondent-1 (respondent-3 in the Writ Petition) took up the matter in appeal which came to be heard in W.A.No. 208 of 1986. By Judgment dated 3-12-1986 the Division Bench affirming the view of the learned single Judge, directed as under:-

"In the view we have taken above, there is no valid ground to differ from the order of the learned single Judge. However, the time for compliance as directed by the learned single Judge is extended by three months from this day. In the

result, the appeal is dismissed. In the circumstances of the case, we direct the parties to bear their own costs."

5. Aggrieved by this, the matter was taken up to the Supreme Court for grant of Special Leave. That Special Leave Application came to be numbered as (Civil) 2202 of 1987. By an order dated 3-4-1989 it was held as follows:-

"The SLP is rejected. But we observe that the temple shall not be demolished for two months from today."

6. In these circumstances, in the present complaint for contempt, it is stated that the Trustees of respondent-1 have not made any attempt to demolish the structure which they have put up on the site by virtue of the interim order dated 19-4-1985 made by the learned single Judge of this Court. On the contrary, they have been putting up further construction on the site in question in gross contempt of the directions issued by this Court and the Supreme Court. The complainants have also lodged a complaint to the jurisdictional Police against the conduct of the respondents in proceeding with the construction against the order of the Court.

7. The Bangalore Development Authority, which had allotted the site, by its resolution at the meeting held on 3-8-1989 at Item No. 1632, validated the allotment, contrary to the Judgment of this Court. The conduct of the respondents in not demolishing the construction put up on the site in question amounts to gross disobedience of the order of the learned single Judge of this Court rendered in W.P.No. 20541 of 1984 which came to be affirmed by the Division Bench in W.A.No,208/1986. The respondents proceeded with the construction of the building on the site in question in contumacious disregard of the orders of this Court and the Supreme Court. Hence this petition.

8. In the elaborate statement of objections, accused Nos. 1 to 4 in this complaint, after referring, to the proceedings, placed reliance on Section 2 (bb) (iv) of the Bangalore Development Authority Act, 1976 (the Act for short) which came to be amended in the year 1988 by Karnataka Act No. 11 of 1988. That amendment has retrospective effect from 21-4-1984. By reason of the amendment, a centre for educational, religious, social or cultural activities would fall within the definition of "civic amenity". Therefore, In view of the subsequent event, the orders are Incapable of being enforced against the respondents. If the purpose of the complaint is to uphold majesty of law and not to nullify the law and not to deprive the citizens of the rights lawfully conferred by the statutes, even by the subsequent statutes, the complainants will do well to ponder just five minutes atleast over the question whether they should destroy that institution which institution brings mental peace to hundreds of people. The resolution passed on 3-8-1989 validating the allotment by the B.D.A., is legal. Bonafide and honestly accused No. 1 understood that there was no time fixed for demolition of the existing structure by the Supreme Court and that there was no specific direction for this at all. The purpose for which the structure was

constructed in civic amenity site is religious and philanthropic as thousands of devotees gather in the temple for performing pooja of the deities. Since the object is promotion of religious activities, accused Nos. 1 to 4 honestly believed and even now believe that they have not wilfully disobeyed the orders of the Court. In any event, after the disposal of the Writ Petition before this Court, no construction had taken place. After the disposal of the Writ Petition, the undertaking given by the accused cannot enure beyond the Writ Petition. At any rate, the matter has been taken up in appeal and Special Leave. Therefore, the complainants cannot seek action for contempt on the ground that the terms of the undertaking have been violated.

9. The Bangalore Development Authority also filed statement of objections as follows;

"In the meanwhile, on a representation made by the present complainant and certain other residents of the locality to this respondent on 7-9-1989, this respondent directed the Commissioner, Bangalore Development Authority to re-examine the decision taken by the BDA on 3-8-1989 in view of the objections from the complainant and others against the aforesaid decision. After reconsideration, the BDA in its meeting held on 3-10-1989 in subject No. 1651 decided to defer a final decision in this regard pending a joint spot inspection by the Chairman and the Officers of the BDA and the Bangalore City Corporation. The B.D.A. has not issued any fresh licence to the Dattaguru Centre in pursuance of its earlier decision taken on 3-8-1989 in this regard.

The B.D.A. having come to know that respondent No. I was proceeding with the further construction of the building on the site in question, in fact, issued a Show Cause Notice dated 18-9-1989 (Copy Annexure-A enclosed) to him, asking to show the authority under which it was doing so. The reply dated 26-9-1989 received from the Centre to the said show cause notice is also enclosed as Annexure-B. This reply was considered by the BDA at its meeting held on 3-10-1989 when further decision in this regard was deferred, pending a spot inspection as stated in para-5 above.

It is submitted that this respondent has not violated any of the directions issued by this Hon"ble Supreme Court. In view of the amendment of the BDA Act on 7-5-1988 retrospectively w.e.f. 21-4-1984 amending the provisions of Section 2(bb) of the Act, the allotment was revalidated by the BDA on 3-8-1989. However, subsequent follow-up action thereon has been withheld in the circumstances mentioned above...."

10. When the matter came up earlier, having regard to the circumstances of the case, we passed the following order on 21-7-1990:-

"An application is presented by the petitioners-respondents with a prayer that the Court may hold a local inspection of the place in question so as to enable this Court to record a finding as to whether it is possible to provide alternative park in the neighbourhood which would cater to the needs of the petitioners-

respondents and other members of the locality.

2. It is submitted by the learned Counsel for the complainants that though the building in question is being apparently made use of as a prayer hall, at certain times particularly during late in the night large number of persons used to gather creating nuisance and it was also noticed that there were empty liquor bottles found on one occasion.

3. In order to ascertain the correctness of the submissions made both in the applications as well as by the learned Counsel for the complainants, we make the following order.

Sri Chandrashekaraiah, learned Government Advocate is appointed as Commissioner with a direction to make local inspection and to submit a report as to the feasibility of having a park in and around the place, shown in the sketch produced by the learned Counsel for the petitioners-respondents, with the assistance of a qualified Engineer. The report shall be submitted in two weeks....."

11. Accordingly, the Commissioner submitted report as follows:-

1. As per the order dated 27th July, 1990, I issued notices to the Advocates appearing for the parties in the above case requesting them to be present at the time of my inspection along with their clients at 4-30 P.M. on 8-8-1990. The Advocates and their parties were present at the spot at the time of ray inspection.

2. At my request one Sri Munivenkatappa, Junior Engineer (P.W.D) was also present at the time of inspection. At the time of inspection, I had taken the assistance of Sri Munivenkatappa. The first respondent-Meditation Centre showed me the area marked by me as ABD in the ink in the plan annexed to this report as the area proposed for developing the said area as park. As per the said plan, the area shown as ABC is available for developing as park. Further, the Meditation Centre also agreed to leave 6 feet passage which runs from point X to Y and from Y to Z. This passage may be used by the children who are residing nearby II Main Road so as to reach the proposed area ABC. To the north of the area ABC, there is 30 feet road which ends at C and D which is dead end. To the north of 30 feet road, there is a private property, on that, one or two houses may come up in future. As the road ends at C and D, the said road will not be busy road even in future.

3. In the inspection, I found that the area which is marked as ABC in the plan may be used for developing as park since it has got direct access from the road. Further, the children who are residing nearby the II Main Road also can reach the proposed park area through passage which runs along X to Y and Y to Z."

He also enclosed a plan to this. The complainants filed objections. Apart from questioning the correctness of the report, in paragraph-5 it was urged as follows:-

"The complainants humbly submit that the appointment of Commissioner is extraneous to the contempt of Court proceedings when it has been clearly

established that the respondents have committed a gross violation of their undertaking to this Hon''ble Court and have wilfully disobeyed the directions issued by this Hon''ble Court and the Hon''ble Supreme Court of India. The Contempt is of such a nature that the respondents will have to face the consequences of their misdeeds. There is no justifiable defence to the respondents. The orders of the Courts are required to be respected by one and all there cannot be any compromise on this score."

12. We repeatedly asked the complainants, some of whom were present before us, and the learned Counsel whether the matter could be compromised and the existing structure which is used for prayer and meditation could be allowed to remain. Our repeated adjournments and requests were of no avail. Therefore, we, having reached cul-de-sac, had to proceed to dispose of the case purely on law, shedding other considerations.

13. Learned Counsel for the complainants submits that here is a case where respondent-1 has given a Solemn undertaking, to pull down the structure if the Writ Petitioners were to succeed. Thus, the undertaking having been recorded by this Court and on the basis thereof when the learned single Judge directed demolition, that ought to have, been complied with. Even the appeal filed by respondent-1 turned out to be unsuccessful excepting it gained the breathing time. The SLP was dismissed in limine. However, the Supreme Court gave two months' time. Where in utter disregard of all these orders, construction had been put up partly during the pendency of the proceedings and remaining part after the SLP was declined, what else could it be, excepting the contempt. If there is any gross disobedience of the order of this Court including the solemn undertaking and yet if the Court were to treat it lightly, it would amount to a premium on the contumacious conduct of the respondents. Therefore, he would urge that the matter be viewed seriously as it involves the upholding of the majesty of law.

14. It cannot be got over merely saying that the structure is used for prayer or meditation. Those considerations are alien to the contempt proceedings.

15. If law allows the complainants to have the full benefit of the hotchpotch of the Judgment, the Court should not decline the fruits of hard earned victory; nor can it be allowed to say that though the construction had been put up in defiance of the orders of this Court, it served the purported cause and therefore it would not amount to contempt. This will encourage only defiance to law which should not be pardoned by this Court.

16. As far as Bangalore Development Authority is concerned, though it proposed to validate the allotment on the strength of Karnataka Act No. 11 of 1988, on the intervention of the complainants, that order was kept in abeyance. Therefore, even purported validation of allotment would amount to contempt.

17. Mr. Holla, learned Counsel for accused. Nos. 1 to 4 would submit that this is a case in which, no doubt, the Writ Petitioners succeeded and the Writ Appeal

filed by respondent-1 was dismissed and Special Leave was also declined. The effect of the orders of the Division Bench of this Court and the Supreme Court is that the doctrine of "merger" comes to play; more so, when the matter was ultimately taken to the Supreme Court. In support of the contention that the doctrine of "merger" comes to play, the decision in *Collector of Customs, Calcutta Vs. East India Commercial Co. Ltd.*, is relied on. In such an event, even if there is disobedience, it would be only of the order of the Supreme Court. Therefore, this Court cannot have jurisdiction to take contempt proceedings in respect of the order of the Supreme Court. If, on the contrary, this Court were to hold that the doctrine of "merger" does not apply, the final order is that of the Division Bench in the Writ Appeal. That order came to be passed only on 3-12-1986. The contempt application had come to be filed only on 4-10-1989 far beyond one year period contemplated u/s 20 of the Contempt of Courts Act. It is well settled in law that limitation cannot be arrested. If that be so, having regard to the terms of Section 20, this Court cannot take any action for contempt beyond one year period.

17(a) It is one of the maxims of law that an under-taxing given by a party must be strictly construed. In this case, the undertaking given is only for the purpose of the Writ Petition; therefore it will enure only during the pendency of the Writ Petition. That cannot be tacked on to the Writ Appeal. In any event, the direction given in paragraph-12 of the Judgment of the learned single Judge replaces the undertaking. Consequently, that undertaking will have no consequence after the Judgment had been pronounced on merits. Further, the property in this case has been endowed for religious purposes viz., prayer and meditation. No Hindu would ever destroy such a property. If a Hindu with all religious sentiments had put up this construction, it cannot be said that there is a wilful disobedience. Only such a wilful disobedience would constitute contumacious contempt.

17(b). The Bangalore Development Authority Act, 1976 (Karnataka Act No. 12 of 1976) had come to be amended by Amending Act No. 11 of 1988. Though that Amending Act was published on 7-5-1988 in the Karnataka Gazette, while amending Section 2, it has been specifically stated that the amendment shall be deemed to have been substituted with effect from 21-4-1984. In other words, it has retrospective operation. As a result of that, Section 2(bb), the definition of "civic amenity" had come to be amended. Sub-clause (iv) of Clause (bb) specifically provides for a centre for educational, religious, social or cultural activities run by a Society or a trust created wholly for charitable, educational or religious purposes. In this case, the learned single Judge has set out the facts, though no specific finding has been rendered. These clearly point out that this is a religious institution. If therefore law itself had come to be amended, the benefit of law must be made available to this case. Consequently, the Judgments disobedience of which is alleged cannot be enforced against these accused. In support of his submission, reliance is placed on the decision in *Sunder Dass Vs. Ram Prakash*, . On the basis of that, it is argued that if the Judgment is rendered null and void statutorily, there is nothing available for enforcement for the

complainants.

18. Mr. Datar, learned Counsel appearing for the Bangalore Development Authority, states that, no doubt, on 3-8-1989, in view of the amended provisions of Section 2(bb)(iv), the B.D.A. purported to validate the allotment. Later on 3-10-1989, even before the contempt petition came to be filed, that order proposing to validate the allotment had been kept in abeyance. Therefore, a mere wrong understanding of the law cannot be held to be a ground for contempt.

19. With regard to the contempt against the B.D.A. we are persuaded to hold that there is no wilful disobedience of the orders. No doubt, neither the definition "amenity" in the Act No. 12 of 1976 as it originally stood nor the definition "civic amenity" in the Bangalore Development Authority (Amendment) Act, 1984 (Karnataka Act No. 17 of 1984) took within it a centre for educational, religious, social or cultural activities. However, Section 2 which contained the definition "civic amenity" in Clause (bb) came to be amended by Karnataka Act No. 11 of 1988 which states as follows:-

"A centre for educational, religious, social or cultural activities or for philanthropic service run by a Co-operative Society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act No. 11 of 1959) or a Society registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960) or by a trust created wholly for charitable, educational or religious purposes."

20. It requires to be carefully noted that though this amendment was carried out by the Karnataka Act No. 11 of 1988, it was published in the Karnataka Gazette on 7-5-1988 and the definition was deemed to have been substituted with effect from 21-4-1984. In other words, this amendment has come into force with effect from 21-4-1984. Based on this provision, the B.D.A. purported to validate the allotment earlier made even for which it had no authority whatever because that point is concluded by the Judgment of Swami, J., in Writ Petition No. 20541 of 1984 which had come to be reiterated in Writ Appeal No. 206 of 1986. The Special Leave also has been declined. Therefore, on the wrong understanding of law, if the B.D.A. purported to do something, we cannot think that there is a wilful disobedience and consequently no contempt would lie against it.

21. Now coming to the other matter, the bone of contention between the parties, the complainants allege that there has been a gross disobedience. Let them have the fruits of the Judgment and let the law take its course, unmindful of anything whether the complainants are modern Shylocks, But even in law they are entitled for the same. Are we to deny the same? is the question.

22. We have already extracted the undertaking given on 19-4-1985. In unmistakable terms, respondent-1 stated:

"...this respondent will pull down the entire building and restore the said C.A. site

to its original position without in any way invoking or pleading for equity. This respondent further undertakes to comply with any direction that may be issued by this Hon"ble Court in this regard,

We are clearly of the view that this undertaking must have its full meaning and scope. Otherwise, this will have no meaning whatever. At this stage, we will refer to the defence put forward by accused Nos. 1 to 4 to get over the undertaking, the Judgment of Swami, J., the Judgment of the Division Bench and the rejection of the SLP by the Supreme Court. The Judgment of Swami, J., was rendered on 27-7-1985. The Division Bench dismissed the Writ Appeal of the first respondent on 3-12-1986. The SLP was declined on 3-4-1989. We are clearly of the view that the Doctrine of Merger will have no application whatever in this case. Our reasons are as under:-

The ultimate order of the Supreme Court is one which declined to grant special leave without stating any reason whatever. In such a case, this cannot at all be considered as an order under appeal to be merged in the order of the Appellate Authority. In the case of Collector of Customs, Calcutta, the question that arose was whether the order of the original authority could be challenged under Article 226 of the Constitution where the order of the original authority was taken in appeal which came to be dismissed confirming the order of the original authority. But, in this case, as pointed out above, there is no appellate order of the Supreme Court. The reason is that the order merely declining to grant leave under Article 136 of the Constitution cannot constitute a precedent within the meaning of Article 141 of the Constitution. On the contrary, if it were to be an order giving reasons for declining to grant special leave, it would constitute a precedent within the meaning of Article 141. In this regard, we may usefully refer to the decision of the Supreme Court in Union of India (UOI) Vs. All India Services Pensioners' Association and Another, it has been held as follows:-

"With great respect to the Tribunal it should be stated that the way in which it has tried to ignore the decision of this Court in State Government Pensioners' Association and Others Vs. State of Andhra Pradesh, is not correct. In the above decision the two learned Judges, who decided that case have given reasons for not applying the rule in D.S. Nakara and Others Vs. Union of India (UOI), insofar as the liability of the Government to pay gratuity on retirement is concerned. The first ground relied on by the Tribunal not to follow the said decision is that it had been rendered by this Court while dismissing some special leave petitions. This is a wholly untenable ground. The special leave petitions were not dismissed without reasons. This Court had given reasons for dismissing the special leave petitions. When such reasons are given the decision becomes one which attracts Article 141 of the Constitution which provides that the law declared by the Supreme Court shall be binding on all the Courts within the territory of India...."

Therefore we hold that the Doctrine of Merger cannot be applied to the facts of the present case.

23. On the assumption that the Doctrine of Merger applies, it is urged that the final order is that of the Division Bench which is dated 3-12-1986. Reckoned from that date and having regard to Section 20 of the Contempt of Courts Act, it is urged that the complaint filed on 4-10-1989 is beyond the period of one year. We are unable to agree. No doubt, Section 20 reads as follows:-

"20. Limitation for actions for contempt -No Court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed."

24. It is equally true that once limitation started cannot be arrested. But this "argument of Mr. Holla conveniently ignores the proceedings of the Supreme Court which respondent-1 lodged. Ultimately, the Supreme Court declined to grant leave in the following terms:-

"The SLP is rejected. But we observe that the temple shall not be demolished for two months from today."

25. It requires to be carefully noted that the Supreme Court also granted two month's time from 3-4-1989. Therefore, had the complainants had come before us at the stage when the matter was pending before the Supreme Court, this Court would not and could not have entertained the complaint. Since the issue was kept alive by filing the special leave petition, it is only after the termination or close of the said proceedings on 3-4-1989, the complainants could have cause of action for initiating the contempt proceedings. Till then they cannot. Therefore, the period of limitation of one year stated in Section 20 will have to be reckoned only from 3-4-1989. If so reckoned, the complaint having been filed on 4-10-1989 is well within time. Hence, we reject this argument as well.

26. It really opposes our comprehension to appreciate the argument that the undertaking enures only during the pendency of the Writ Petition and not beyond that. The solemn undertaking given to the Court is meant to be obeyed and it cannot be opposed by any ingenuity whatever, more so when the undertaking is recorded and incorporated as a part of the Judgment by Swami, J., in the Writ Petition. Only in the light of that, he gave a direction as contained in paragraph-12 of His Judgment stating that Respondent-3 is directed to restore the site to its original position after removing the construction, if any, put up on the site in question. Respondent-3 is further directed not to proceed with the construction on the site in question. Compliance in three months. (Respondent-3 referred to by the learned Judge is none other than respondent-1 in this complaint). Equally the Division Bench also, while dismissing the appeal, held in paragraph-9 that time for compliance was extended by three months from the date of Judgment viz., 3-12-1986. Therefore, we have to give full effect to the undertaking, the Judgment of the learned single Judge, the Judgment of the Division Bench as well as the time gained at the hands of the Supreme Court by respondent-1 before us. Therefore, we reject this argument.

27. Coming to the contention that the endowed property cannot be destroyed, it seems to us that it is only an argument out of desperation. The question is to what use the property is? The further question is whether or not there is a defiance and that too wilful disobedience of these viz., the undertaking, the Judgment of the learned single Judge, that of the Division Bench and the order of the Supreme Court. Our answer is in the affirmative because the construction has gone on merrily in disregard of all these proceedings and even after the special leave had been declined. If this is not a contumacious contempt, we do not know what else could it be?

28. Lastly turning to the amendment effected to the Bangalore Development Authority Act, 1976 by Act No. 11 of 1988, no doubt, as we have seen earlier, the amendment came to be made so as to include under Clause (bb)(iv) of Section 2 a centre for educational, religious, social or cultural activities. But the question is, by the mere amendment of law, whether the binding Judgment between the parties could be rendered invalid. It is in this regard learned Counsel cites the decision of the Supreme Court in *Sunder Dass v. Ram Parkash*. Suffice it for our purpose to extract the Headnote:

"Civil Procedure Code (1908), Section 47 -Executability of decree - Duty of Executing Court - Decree in favour of A for eviction of B - Addition of Proviso in Section 3 of Delhi Rent Control Act with retrospective effect - Decree, if rendered null and void by virtue of Section 50 of the Act - (Delhi Rent Control Act (1958). Sections 50, 3 Proviso (as amended in 1963),"

We will also note the proviso u/s 50 which is to the following effect:

"Provided that where any premises belonging to Government have been or are lawfully let by any person by virtue of an agreement with the Government or otherwise, then, notwithstanding any Judgment, decree or order of any Court or other authority, the provisions of this Act shall apply to such tenancy."

29. It has to be seen that the "proviso in unmistakable terms contains a non-obstinate clause "notwithstanding any Judgment, decree or order of any Court or other authority, the provisions of this Act shall apply to such tenancy." In other words, the effect of the proviso is to undo the Judgment or to nullify the effect of the Judgment. That makes a ocean of difference between the Ruling cited and the case on hand. Here law has been amended and the scope of the definition "civic amenity has been enlarged. That amendment, no doubt, came into force with effect from 21-4-1984. But that by itself cannot render the Judgment invalid or nugatory. The Judgment is very much there and it is still capable of being enforced. Any disobedience of the Judgment, based on the law then existed, between the parties, would undoubtedly constitute contempt. Therefore, this Ruling has no application to the facts of the present case because the Legislature never intended to undo the Judgment rendered in the light of the earlier definition.

30. As a matter of fact, as we observed above, we tried to bring about the

compromise between the, parties and in that direction even appointed a Commissioner and got a report. As we stated above, the complainants wanted to have Judgments enforced. We are helpless. If the parties are entitled to the benefit of the Judgment, we have no other option but to extend the same to them, if law permits. In this case, law permits.

31. In the result, we hold A-1 U.V. Srinivasa Murthy, guilty of contempt u/s 12 of the Contempt of Courts Act. In accordance with Rule 10 of the Rules framed thereunder, a charge will issue and be served on him. He is directed to be present in Court at 10-30 a.m. on 15-10-1990.

32. Accused Nos. 2 to 6, though guilty of contempt, technically cannot be punished because they were not parties either in the Writ Petition or in the Writ Appeal nor was the undertaking furnished by anyone of them.

33. Equally, we having exonerated A-7 Bangalore Development Authority, no action is required against it. Likewise, is A-8, Station House Officer, High Grounds Police Station.

ORDER DATED 16-10-1990

34. The accused No. 1 is present in Court. He files a memo praying to recall the non-bailable warrant ordered on 15-10-1990. Taking sympathetic view, it is recalled.

35. A copy of the charge memo is served on A-1. The same is read over and explained to him. He pleads not guilty. His plea is recorded. He, however, submits as on the date when the undertaking was given before this Court in the Writ Petition he was not the Managing Trustee of respondent-1 Trust as he has taken over the managing trusteeship only six months ago i.e., on 24-4-1990 and therefore he is not responsible for any construction and in any event, no construction has taken place after he has taken over the charge. We reject his plea.

36. It is needless to point out that in law whoever is in charge of the managing trusteeship representing respondent-1 Trust shall be liable for the consequences in a case like this, more so in view of Section 12(4) of the Act. Besides, it is seen from the records that even after the Supreme Court Order disposing SLP No. 2202 of 1987 on 3-4-1989 and even after A-1 U.V. Srinivasa Murthy became the Managing Trustee of respondent-1 Trust, the construction went on. In that view also A-1 Sri U.V. Srinivasa Murthy is liable for punishment for Contempt of Court.

37. In the circumstances dealt with as above as to the undertaking given by A-1 in the Writ Petition and the disobedience thereof, we are further of the opinion that having regard to the gross disobedience, a mere imposition of fine will not meet the ends of Justice. Therefore, we sentence Sri U.V. Srinivasa Murthy (A-1 in this petition) to simple imprisonment for a period of 15 days and he be detained in Civil Prison. A-1 who is present in Court shall be taken to custody and committed to Civil Prison to undergo the sentence imposed.

38. Besides the above imposition of punishment u/s 12(3), it is necessary to give directions as follows:

The existing structure constructed on site carved out of Sy.No. 13 of Mallenahalli presently called Chakravarthi Layout within the Corporation of the City of Bangalore shall be pulled down by respondent-7, Bangalore Development Authority, on or before 5 p.m. on 25-10-1990, failing which it is open to the complainants to have the structure demolished and necessary charges recovered from respondent-7 (A-7) as well as respondent-1 (A-1) for such demolition. Ordered accordingly,

39. An oral prayer was made before this Court for special leave. We do not think that this is a fit case for grant of leave prayed for since no question of law of general importance is involved having regard to the gross disobedience which had gone on without the slightest respect for the Court and not even an apology having been tendered. Prayer rejected.