

(1965) 02 AP CK 0012

In the Andhra Pradesh High Court

Case No : Contempt Case No's. 19 and 20 of 1964

R. Narapa Reddy

APPELLANT

Vs

Jagarlamudi Chandramouli and Others

RESPONDENT

Date of Decision : 10-02-1965

Acts Referred:

Constitution of India, 1950 — Article 215
Contempt of Courts Act, 1971 — Section 3

Citation : AIR 1967 AP 219 : (1967) CriLJ 984

Hon'ble Judges : P. Satyanarayana Raju, C.J.; Chandrasekhara Sastry, J

Bench : Division Bench

Advocate : G. Balaparameswari Rao, E. Kalyana Ram, P.A. Chowdary, M.B. Rama Sarma, G. Sivaram, P.L. Narasimha Sarma, P. Ramachandra Reddy and A.G. as Amicus curiae, for the Appellant;

Judgement

P. Satyanarayana Raju, C.J.

(1) These two contempt cases are connected and it will be convenient to deal with them together as they both arise out of exactly the same facts.

(2) In C. C. No. 19 of 1964 the petitioner is Sri R. Narapa Reddy. There are ten respondents. They are: (1) Sri Jagarlamudi Chandramouli; (2) Sri A. Sanjeevaiah, (3) Sri M. Seshagirirao, (4) Sri Medarametla Rosayya, (5) Sri Muvva Ramachandrayya, (6) Sri K. Sreeramamurty, (7) Sri Karasala Singayya Chowdary; (8) Sri P. Kondiah; (9) Sri Chintapalli Jagannadharao and (10) Sri Patibandla Sivaligaiah.

(3) In C. C. No. 20 of 1964 the petitioner is Sri Jagarlamudi Chandramouli. The respondents are Sri T. Chakra Reddy and Sri J. Rajasekhara Reddy. Additional District Munsif, Guntur.

(4) We may briefly sketch the sequence of events culminating in the present cases in order to explain how the alleged contempts arise.

(5) The Guntur District Co-operative Marketing Society Limited, Guntur (hereinafter referred to as the District Marketing Society), is a Society registered under the Co-operative Societies Act, with its head Office at Guntur. Its area of operations extends to the entire revenue District of Guntur. Its affairs are managed by a Board, consisting of eleven Directors. According to bye-law 14 of the Society, the Board is composed of (a) five Directors elected by Co-operative Marketing Societies, (b) two Directed elected by other Societies, (c) two Directors elected by individual share-holders; (d) one Director representing the Co-operative Central Bank Ltd (e) one Director to be nominated by the Registrar of Co-operative Societies.

(6) The term of office of the Board of Directors constituted in the year 1959 was to expire on December 31, 1964. Pursuant to the powers vested in it under the bye-laws of the Society, the Board met on October 11, 1964, and resolved to convene the general-body meeting on November 11, 1964, at 12-30 P. M. for electing the ten Directors. The Deputy Registrar of Co-operative Marketing Societies, Guntur, approved of the programme of election by his communication dated October 13, 1964. On October, 24, 1964, the Deputy Registrar nominated Sri T. Ranga Reddy, as Election Officer. On October 27, 1964 Sri J. Chandramouli filed Writ Petition No. 1727 of 1964 on the file of this Court for the issue of a Writ of Mandamus questioning the legality of the appointment of Sri T. Ranga Reddy as Election Officer and C. M. P. No. 11768 of 1964 for stay of the operation of the order made by the Deputy Registrar. On October 27, 1964, interim stay was granted by this Court for ten days. Two days later, on October 29, 1964, the Deputy Registrar and the State of Andhra Pradesh, represented by the Secretary, Co-operative Department filed C. M. P. No. 11848 of 1964 to cancel the interim stay. On October 30, 1964, Mr. Justice Gopalakrishnan Nair after hearing the parties, made the following order on the above petition.

The election itself will be conducted by a new person nominated by the Registrar of Co-operative Societies in the place of the present second respondent. But the person so chosen by the Registrar will have a status not inferior to that of a Joint Registrar and a Joint Registrar having jurisdiction over Guntur will not be chosen by the Registrar.

The interim order already passed is modified as stated above."

(7) Pursuant to the above order, the Registrar of Co-operative Societies appointed Sri. M. S. Hanumantha Rao, Joint Registrar of Co-operative Societies (Farming), Hyderabad, to conduct the election to the Board of Directors of the District Marketing Society.

(8) Meanwhile, on October, 29, 1964, the Guntur Cotton Growers Co-operative Society filed W. P. No. 1727 of 1964 for the issue of a writ of mandamus directing the District Marketing Society to admit the petitioner-Society as its member. This Writ Petition was heard on November 9, 1964 and it was dismissed on November 10, 1964, by a Division Bench of this Court, consisting of Chandra Reddy, C. J.,

and Gopalrao Ekbote, J.

(9) On November 10, 1964, Sri T. Chakra Reddy, filed O. S. No. 414 of 1964 on the file of the District Munsif's Court, Guntur, impleading the Joint Registrar as the sole defendant "to declare the Guntur District Tobacco Growers and Curers Co-operative Society Ltd., Ongole as a "Marketing Society" and the plaintiff as its delegate to participate in the General-body meeting of the District Marketing Society for the election of the Board of Directors, and for a consequential injunction restraining the defendant from conducting the election to the Board of Directors. Along with the plaint, Sri Chakra Reddy filed I. A. No. 2336 of 1964 for the issue of an interim injunction restraining the defendant (Joint Registrar) from conducting the election to the Board of Directors for the District Marketing Society scheduled to be conducted on November 11, 1964. The District Munsif granted an interim order on November 10, 1964. The interim order was served on the Joint Registrar the same evening. On the day following, the Joint Registrar issued a memorandum declaring that the election would not be conducted by him as per the injunction order issued by the District Munsif.

(10) With this background of admitted events, we may now proceed to deal with the alleged contempts.

(11) The petitioner in Contempt Case No. 19 of 1964 is a member of the Co-operative Loan and Sale Society Limited, Ongole, which is a Marketing Society and is affiliated to the District Marketing Society. He is also its delegate to the District Marketing Society. He filed his nomination for election to one of the posts of the five Directors representing Marketing Societies.

(12) The evidence before us is all on affidavit. Eleven affidavits, including that of the petitioner, have been filed in support of the petition.

(13) The material averments in the petitioner's affidavit are as follows:- The petitioner and his supporters went to attend the meeting scheduled to be held at 12-30 P. M. on November 11, 1964, for the conduct of election by the Election Officer specially appointed under the directions of the High Court in C. M. P. Nos. 11768 and 11848 of 1964 in W. P. No. 1727 of 1964, dated October 30, 1964. While so, the specially designated Election Officer (Joint Registrar of Co-operative Societies, Farming, Hyderabad) put up a notice on the notice board of the District Marketing Society at 10-30 a. m. stating that an order of interim injunction was issued in I. A. No. 2336 of 1964 in O. S. No. 414 of 1964 on the file of the District Munsif, Guntur, and hence the election to the governing body of the Marketing Society scheduled to be held that afternoon would not be conducted. There-upon, the 1st respondent (Shri J. Chandramouli), presiding over the meeting, took over the mike and announced that there was no prohibition against the general-body as such to proceed with the election as the injunction was served only on the Election officer, and that the general-body might proceed with the election of the Directors irrespective of the order of interim injunction. The petitioner then intimated his party-men that they had to obey the orders of

the Court and warned all the members who assembled there that if they were to proceed any further, they would be held liable for dis-obedience of the orders of the Court and that any election held while the injunction order was in force would not only be illegal and void but would also entail penal consequences on the participants. Thereafter, he and a large majority of the members left the premises.

The petitioner learnt later that the respondents, finding that a vast majority of the members had left the premises consequent on the interim injunction order took advantage of their absence and with the mala fide intent of putting forward the persons belonging to their minority group as members of the governing body and office bearers, stage-managed an alleged meeting of the remaining members of the general body, where at a governing body and office-bearers of the Marketing Society were stated to have been elected. The said election and all other incidental proceedings are not only illegal and void but constitute definite acts of contempt in disobedience of the orders of Court and as such the respondents are liable to be punished for the same.

The Deputy Registrar of Co-operative Societies, Guntur, addressed a letter to the 1st respondent before the election meeting was convened to the effect that the election to the Board was not to be conducted in view of the order of the Court. Even so, the 10th respondent who was said to have been elected as Presiding Officer, conducted the election meeting at which the 1st respondent was said to have been re-elected as President and the 2nd Respondent as Vice-President and respondents 3 to 9 as other Directors of the Board. The respondents have thus committed contempt by undermining the dignity of the Court by flagrant flouting of the orders of the Courts and thus interfering with the course of justice.

The specific orders of the High Court in C. M. P. Nos. 11768 and 11848 of 1964 in W. P. No. 1727 of 1964 was that the election should be conducted by a joint Registrar of Co-operative Societies of a different jurisdiction, and pursuant to the said direction, the Registrar appointed the Joint Registrar of Co-operative Societies (Farming) Hyderabad, as Election Officer. When the Civil Court granted an injunction restraining him from conducting the election and when he accordingly did not conduct the meeting, it was wholly illegal and incompetent for some of the remaining members of the general body to proceed with the election by electing one of the members present as Election Officer in view of Rule 22 (1) (v) of the Rules and it was also contrary to the very direction of the High Court to the effect that an impartial departmental official, of the rank of a Joint Registrar alone, should conduct the election. The 1st respondent himself having obtained the aforesaid direction from the High Court, he along with the other respondents committed contempt of court by disobeying the orders made in the said writ petition. The petitioner, therefore, prayed that the respondents should be committed for gross contempt of Court for wilful disobedience of the orders of the District Munsif's Court as well as the direction of this Court.

(14) The averments in the ten other third-party affidavits filed in support of the

petition are substantially the same.

(15) The material averments in the counter-affidavit filed by the 1st respondent are as follows:-- The order of injunction issued by the District Munsif's Court was intended only to restrain the Joint Registrar of Co-operative Societies from conducting the election. That order had been so understood by all the concerned, including the Joint Registrar, who endorsed in the minute-book of the Society to the effect that he could not conduct the election as he was restrained by the order of injunction. As soon as the general body met the petitioner asked the 1st respondent to adjourn the meeting. He denied that he had ever taken the mike and said that the general body should go on with the meeting. It is true that he explained to the general body the aforesaid understanding of the order of injunction based not merely on the language of the order but also upon the endorsement of the officer, but as he was powerless to stop or to continue the proceedings of the general body, he left the whole matter for its consideration. He honestly felt that when the general body met, the question of adjourning its proceedings was a matter which lay in the exclusive competency of the general body. The general body, after full consideration of the entire situation then obtaining, decided to conduct the election. The Deputy Registrar wrote to him a letter by the time the letter reached him, the general body had elected the President and commenced the business on the agenda. He denied having committed any contempt of Court.

(16) The counter-affidavits filed by the other nine respondents are more or less on the same lines.

(17) The arguments before us have ranged over a wide field. The contentions of the learned counsel for the petitioner may be summarised as follows:-- The contempt committed by the respondents consists in their conducting the election on November 11, 1964, in spite of the combined effect of the order of the High Court and that of the District Munsif's Court. The order of the High Court and that of the District Munsif's Court consists of three parts: (a) Sri T. Ranga Reddy should not conduct the election; (b) any person having jurisdiction over Guntur should not conduct the election; and (c) the election should be conducted by a person of the status of Joint Registrar nominated by the Registrar of Co-operative Societies. The emphasis was on the person who should conduct the election. There was no positive direction by the High Court that the election itself should be held on the 11th. The 1st respondent is guilty of contempt for disobedience of the order of the High Court and that of the District Munsif's Court. Respondents 2 to 7 and 9 had knowledge of the order of the High Court and that of the District Munsif. The 1st respondent himself had invited the order from this Court. It was therefore an order in invitum.

(18) The petition against the 8th respondent was not pressed.

(19) The contentions of the learned counsel for the respondents may be summarized thus:-- There was no willful or deliberate disobedience of the order

of the High Court or that of the District Munsif's Court. The interim order of injunction passed by the District Munsif is without jurisdiction and is therefore, void. The District Munsif himself committed contempt of the High Court by restraining an officer, who was directed to hold the election to the Board of Directors of the District Marketing Society, in pursuance of the order of the High Court from conducting the election.

(20) Before dealing with the rival contentions, we shall briefly consider the law of contempt relevant to the facts of the case.

(21) Article 215 of the Constitution vests the High Court with all powers of a Court of record including the power for contempt of itself. The power to commit for contempts of subordinate Courts has been expressly conferred upon it by the Contempt of Courts Act, 1952. Clause (1) of Section 3 provides that subject to clause (2) of Section 3 every High Court shall have and exercise of the same jurisdiction, powers and authority in accordance with the same procedure and practice, in respect of contempts of Courts Subordinate to it, as it has and exercises in respect of contempt of itself.

(22) The Contempt of Courts Act does not define "Contempt". In Pratap Singh and Another Vs. Gurbaksh Singh, their Lordships of the Supreme Court adopted with approval the definition of contempt as given in Oswald's Contempt of Court, 3rd Edition, page 6:

"To speak generally, contempt of Court may be said to be constituted by any conduct that tends to bring the authority and administration of the law into disrespect or disregard or to interfere with or prejudice parties litigant or their witness during the litigation."

In Saibal Kumar Gupta and Others Vs. B.K. Sen and Another, Mr. Justice Subba Rao observed:

". It is settled law that a person will be guilty of contempt of court if the act done by him is intended or calculated or likely to interfere with the course of justice."

(23) In American Jurisprudence, Vol. 12 at page 395, it is stated that the following acts constitute contempt:

"The Acts constituting contempt cover a wide range. The most familiar forms of contempt of court are found in acts which hinder, delay and obstruct the administration of justice which are usually committed in the course of the adjudication of some cause or the execution of its judgment. Acts which bring the court into disrepute or disrespect or which offend its dignity, affront its majesty, or challenge its authority constitute contempt of court."

(24) The alleged contempt of which respondents 1 to 7 and 9 and 10 are said to be guilty, consists of two parts: (1) That they committed contempt by disobeying the order of injunction issued by the District Munsif in I.A. No. 2336 of 1964 in O.

S. No. 414 of 1964 and (2) that they violated the order of the High Court in C. M. P. Nos. 11768 and 11848 of 1964 in W. P. 1727 of 1964.

(25) It is contended that the 1st respondent committed contempt by persuading members of the general body to proceed with the election despite the order of injunction passed by the District Munsif and that the 10th respondent, who had knowledge of the said order, committed contempt by presiding over the general body meeting at which the election was conducted. It is further contended that respondents 2 to 7 and 9, despite their knowledge of the order of interim injunction contempt by participating in the election.

(26) Now, we may explain the scope of the suit in which the order of interim injunction was made by the District Munsif, Guntur Sri T. Chakra Reddy filed the suit, impleading the Joint Registrar of Co-operative Societies, of Hyderabad, designated as Election Officer to conduct the election to the Board of Directors of the District Marketing Society, as a sole defendant. Therein, the plaintiff prays

(27) Along with the plaint, the plaintiff filed I. A. No. 2336 of 1964. The prayer therein is as follows:-

"For the reasons stated in the accompanying affidavit the petitioner-plaintiff prays that this Honble Court may be pleased to issue order of interim injunction restraining the respondent-defendant herein from conducting the elections of the Board of Directors for the Guntur District Co-operative Marketing Society Ltd., Guntur, scheduled to be conducted on 11-11-1964 pending disposal of the suit and for interim orders."

(28) The District Munsif, Guntur, made an ex parte order in the following terms:--

"Heard the Advocate. Interim stay and notice by 13-11. There is no representation on behalf of the respondent."

(29) The actual order drawn up by the Court and served on the defendant is as follows:-

"Where the petitioner-plaintiff having applied to this Court under Order 39, Rules 1 and 2 and Section 151 C. P. C. praying the Court to grant an interim injunction restraining the respondent-defendant from conducting the elections of the Board of Directors for "The Guntur Co-operative Marketing Society Ltd., Guntur", scheduled to be conducted on 11-11-1964 pending disposal of the suit; it is ordered that you are hereby restrained by means of an interim injunction from conducting the elections of the Board of Directors for "The Guntur District, Co-operative Marketing Society Ltd., Guntur" scheduled to be of the suit.

Date of hearing 13-11-1964."

(30) The order was received by the defendant (Election Officer). Thereupon he drew up proceedings which ran thus:

"In view of the interim injunction order I. A. No. 2336/64 in O.S. 414/64 dated

10-11-1964 of the District Munsif, Guntur, restraining me from conducting the election of the Board of Directors for "The Guntur District Co-operative Marketing Society Ltd., Guntur" scheduled to be conducted to-day, the eleventh November Nineteen Sixty four (11-11-1964) at 12-30 P. M., the elections to the Board of Directors of the Guntur District Co-operative Marketing Society Ltd., Guntur, will not be conducted by me today the 11th November 1964 as per the order of the District Munsif, Guntur, mentioned above."

(31) It may be noted that the plaintiff filed the plaint in his individual capacity. The Society, on whose behalf he sought the declaration, was not eo nomine a party to the suit. The sole defendant in the suit is the Joint Registrar of Co-operative Societies, designated as Election Officer. The District Marketing Society was not impleaded as a defendant. The District Marketing Society was not impleaded as a defendant. The order of injunction issued by the District Munsif restrained the defendant (the Joint Registrar) from conducting the election to the Board of Directors.

(32) That all the respondents had knowledge of the order of interim injunction issued by the District Munsif admits of no doubt. It is argued by the learned counsel for the petitioner that the Deputy Registrar of Co-operative Marketing Societies immediately wrote to the 1st respondent that the election should not be conducted in view of the order passed by the District Munsif. There is some controversy as to when exactly the letter of the Deputy Registrar reached the 1st respondent. It is contended that the order of the District Munsif virtually stayed the conduct of the election and that the respondents, deliberately flouting that order, committing contempt. The learned counsel for the respondents has, on the other hand, argued that the Election Officer alone was restrained from conducting the election; and that the District Marketing Society not having been made a party to the suit or to the interlocutory application for the grant of an injunction, there was no interdict on the general body from proceeding with the conduct of the election. It is further argued that the order passed by the District Munsif is one without jurisdiction.

(33) Now, where a person is restrained by an injunction from doing a particular act, that person commits a breach of the injunction and is liable in contempt if he, in fact, does the act, and it is no answer to say that the act was not contumacious in the sense that, in doing it, there was no direct intention to disobey the order. But as pointed out by a Special Bench of the Patna High Court in *Maharaja Pratap Udai Nath Shahi Deo Vs. Sara Lal Durga Prasad Nath Shahi Deo and Others*, :

"Equity acts in persona, and an injunction is a personal matter. The ordinary rule is that it can only be disobeyed in contempt by persons named in the writ."

(34) Persons who were defendants in the suit in which injunction was granted nor were named in the order cannot be proceeded against in contempt for disobeying the injunction.

But it is maintained that the doing by any one of an act which is forbidden, is itself an offence. It has been held by their Lordships of the Privy Council in *Seawrd v. Paterson* (1897) 1 Ch 545 that there is a clear distinction between a motion to commit a man for breach of an injunction, and a motion to and abetted the defendant in the breach of an injunction; that in the first case the order is made to enable the plaintiff to get his rights; and in the second, because it is not for the public benefit that the course of justice should be obstructed. It is now well settled that the Court has undoubted jurisdiction to commit for contempt a person not included in an injunction and/or not a party to the action who, knowing of the injunction, aids and abets a defendant in committing a breach of it.

(35) The decision of the Privy Council in AIR 1938 295 (Privy Council) at p. 300 is conclusive on this point. In that case their Lordships observed:--

"The respondents, however, contended that even if the Secretary of State was not himself guilty of direct disobedience to the injunction which had been granted, yet the other two appellants were guilty of contempt upon the principle set out in *Avery v. Andrews*, (1882) 51 LJ Ch 414 : 46 LT 279 and (1897) 1 Ch 545: 66 LJ Ch 267. In terms, however, those cases limit the offence of contempt by a person not a party to the injunction to cases where they aid and abet the party enjoined in its breach. Where, as here, that party has not broken the injunction, it is impossible to hold that any one has aided or abetted them in breaking it.

The respondents sought to avoid this difficulty by maintaining that the doing by any one of an act which was forbidden by the injunction was itself an offence.

Their Lordships can find no authority for so wide a proposition. It is certainly not enunciated or indeed hinted at in the cases referred to nor do they think it is sound in principle."

(36) None of the respondents in the present case was a defendant to the suit in which the injunction was granted. The injunction order was admittedly issued to the Election Officer not to conduct the election. It is not the case of the petitioner that the respondents aided and abetted the party (the Election Officer) enjoined in its breach. Where, as here, that party has not broken the injunction, it is impossible to hold that anyone has aided or abetted him in breaking it.

(37) The second ground on which the Contempt case rested poses, however, a more difficult problem. It is that the respondents, particularly the 1st respondent having invited the High Court to pass an order, could not very well violate it and act in a manner contrary to the intendment and scope of that order. We have already extracted the order passed by Mr. Justice Gopalakrishnan Nair. The genesis of that order has also been set out. Soon after, the Board of Directors, at their meeting held on October 11, 1964, fixed November 11, 1964, as the date for the conduct of the election, the Deputy Registrar of Co-operative Societies (Marketing) issued an order appointing Sri T. Ranga Reddy as Election Officer to

conduct the election, whereupon the 1st respondent filed a Writ petition in the High Court objecting to the appointment of Sri T. Ranga Reddy as Election officer. He sought interim stay of the conduct of the election. At that stage, the Deputy Registrar and the State Government filed a petition for vacating the stay issued by the High Court on the application of the 1st respondent. In its order, dated October 30, 1964, the High Court directed that the election itself should be conducted by a person other than Sri T. Ranga Reddy, to be nominated by the Registrar of Co-operative Societies. It was specifically stated in the order that the person to be nominated should be a person exercising jurisdiction outside the District of Guntur.

(38) It is contended by the learned counsel for the petitioner that it was at the instance of the 1st respondent that the order of the High Court was passed and that he was bound to obey its terms; that the other respondents also obey its terms; that the other respondents also knew about the order of the High Court, which specifically directed the election to be conducted by the Joint Registrar of Co-operative Societies specially designated by the Registrar, and that they were in contempt in contravening the specific direction given by the High Court that the election should be conducted by a person nominated by the Registrar; and that the election itself is illegal and void as it was held contrary to the directions issued by the High Court.

(39) It may be mentioned at this stage that on November 11, 1964, the general body, barring those who left the meeting, proceeded with the election of the Directors. Thereafter, an election dispute was filed by two aggrieved persons before the Registrar of Co-operative Marketing Societies. This is the subject-matter of a writ petition now pending in this Court. Under the provisions of the Andhra Co-operative Societies act, a dispute, including an election dispute, can be adjudicated upon by the Registrar himself or by a person, nominated by him. An appeal is provided against the determination of such a dispute. Therefore, it is within the competence of the authorities created under the Act to decide a dispute with regard to the validity of an election.

(40) Now, as observed by Rankin, C. J., in *Ananta Lal Singh and Others Vs. Alfred Henry Watson and Others*, at p 261:

"The Court's jurisdiction in contempt is not to be invoked unless there is real prejudice which can be regarded as a substantial interference with the due course of justice. It is not every theoretical tendency that will attract the action of the Court in its very special jurisdiction. The purpose, and it is reasonably clear, on the authorities, that this Court will not exercise its jurisdiction upon a mere question of propriety."

(41) These observations were approved by their Lordships of the Supreme Court in *Rizwan-ul-Hasan and Another Vs. The State of Uttar Pradesh*, .

(42) In *Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh*, , their Lordships of the Supreme Court have pointed out:

"It admits of no dispute that the summary jurisdiction exercised by superior Courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as administered in the Courts."

(43) Contempt jurisdiction is of a special nature and should be sparingly used. In *Malojirao Shitole v. C. G. Matkar*, AIR 1953 Madh-B 245 (FB) it has been held that the Court will not exercise this jurisdiction when the parties want to use it as a cloak to invite a decision on an important and complicated collateral question.

(44) Any attempt to obtain an adjudication from the Court on an action which a party desires to have for his own interest or his own purposes under the guise of a contempt action, should not be whether the exercise of this jurisdiction is necessary for the preservation of the dignity of the Court or for the purposes of the administration of justice. It should only be exercised in very clear cases and with the utmost restraint and caution.

(45) Bearing these principles in mind, we will now proceed to consider whether the respondents should be held guilty of contempt for the alleged violation of the order of the High Court.

(46) After a consideration of the several matters argued before us, we are left with no doubt that the anxiety of the parties is to get a decision on the controversial collateral question of the validity of the election held on November 11, 1964. As already stated, the validity of the election is the subject-matter of an election dispute which is within the competence of the officer who is to be appointed by the Registrar of Co-operative Societies. The Co-operative Societies Act provides a right of appeal over such a decision. In such a situation it would be the necessary consequence of a decision on the question as to whether the election conducted on November 11, 1964 constituted a contravention of the order of the High Court. We are, therefore, of opinion that the issue must be left open for future decision in appropriate proceedings and that this Court should not allow its jurisdiction to commit for contempt to be invoked in a case like this.

(47) There remains the connected Contempt Case (No. 20 of 1964) filed by the 1st respondent (Sri J. Chandramouli) against (1) Sri T. Chakra Reddy and (2) the District Munsif, Guntur.

(48) The case of the petitioner, briefly stated, is as follows:-- By his order dated October 30, 1964, Mr. Justice Gopalakrishnan Nair, directed that the election scheduled to be held on November 11, 1964, should be conducted by a person to be appointed by the Registrar of Co-operative Societies. On November 10, 1964, the 1st respondent filed O. S. No. 414 of 1964 before the 2nd respondent for a declaration that the Guntur District Tobacco Growers and Curers Co-operative Society Limited, is a Marketing Society and the 1st respondent is its delegate and for a consequential injunction restraining the Joint Registrar of Co-operative Societies, Hyderabad, designated as Election Officer, from conducting the election on November 11, 1964, to the Board of Directors. The 1st respondent filed I. A.

No. 2336 of 1964 for the grant of an injunction. The 1st respondent had knowledge of the order of this Court. In fact, he referred to the order of the High Court in the plaint. So the order of the High Court was known to both the 1st and 2nd respondents. They wantonly and deliberately committed gross contempt of Court by restraining an officer, who was directed to hold the election by an order of this Court, from holding the election.

(49) In a supplemental affidavit filed by him, the petitioner alleged that the 2nd respondent was motivated by mala fides in granting the interim injunction.

(50) The imputation of mala fides was stoutly denied by the 2nd respondent in his counter affidavit. with regard to the main affidavit, the 2nd respondent stated as follows in paragraph 3 of his counter affidavit:--

"It is true that I. A. No. 2336 of 1964 praying for an interim injunction restraining the holding of election to the Society was moved as an out of order petition on the after-noon of 10-11-1964. The plaint in O. S. 414 of 1964 was presented before the Principal District Munsif, Guntur, who had to entertain and register the same and he transferred the same to my file. The transfer of cases to the file of the Additional District Munsif (that is, myself) takes place according to the number of the suit, odd numbers being kept by the Principal District Munsif and even numbers being transferred to me and it was by the accident of the even number of this suit that it was transferred to me, by no volition or act of my own, and this should no collusion between this plaintiff and myself. There is nothing unusual or improper in entertaining the out of order petition as it is the practice of the Court to entertain such out of order petitions in cases of urgency. I have to submit that I only glanced throughout the plaint and read the decisive classificatory order of the Joint Registrar filed along with the plaint, and read though the affidavit in support of the I. A. and I felt impressed that the plaintiff had a prima facie case, and that in spite of the clear recognition of the Guntur District Tobacco Growers and Curers Co-operative Marketing Society was illegally refusing to recognise it as such, in all likelihood with a view to deprive the plaintiff of his right to contest the election to the Board of Directors as a representative of the marketing Society. As I felt that a prima facie case was made out that the elections were sought to be conducted in an unfair manner, I granted an interim order of injunction in the honest exercise of my judgment."

(51) In paragraph 4 of his counter-affidavit the District Munsif stated:

"In fact the plaintiff in the suit before me was not a party to the Writ Petition that was pending in this Hon''ble Court, and any order passed by me in protection of this plaintiff's rights could not have contravened any order of this Hon''ble Court and in any even I acted honestly in such a view of the matter but not with an intention to pass an order contrary to or violative of an order of this Hon''ble Court."

(52) In paragraph 5, the 2nd respondent justified his action as follows:--

"This Hon"ble Court merely thought fit not to grant stay and directed an alternative officer to conduct the election. The petitioner is therefore not right in his contention that there was any specific direction by this Hon"ble Court that the election should be conducted on 11-11-1964 nor was there any indication in this Hon"ble Court's order that no other Court or tribunal should pass any order in the exercise of its lawful jurisdiction in respect of the said election. I submit that there was no order of this Hon"ble Court which required compliance by the D. M. C., Guntur and which can be said to have been flouted for non-compliance."

(53) It is plaint itself it was stated:

"The High Court has further directed that the election should be conducted by the defendants, viz., the Joint Registrar of Co-operative Societies, Hyderabad, as Election Officer for the Guntur District Co-operative Marketing Society, as per the original schedule on 11-11-1964."

(54) It is contended by the learned counsel for the petitioner that respondents 1 and 2 obstructed the implementation of the order passed by the High Court, It is stated that the suit filed by the 1st respondent is an abuse of the process of the Court; that he filed his nomination as a delegate of a non-marketing society; and that there were no bona fides on his part in seeking an injunction restraining the Election Officer from holding the election.

(55) When this matter came before us at the stage of notice, we requested the learned Advocate General to assist this Court in as much as the petition raises a somewhat important question. We have now heard the learned Advocate General and the learned counsel appearing for the parties.

(56) In *East India Commercial Co. Ltd., Calcutta and Another Vs. The Collector of Customs, Calcutta*, their Lordships of the Supreme Court have observed as follows:--

"Under Article 215, every High Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself. Under Article 226, it has a plenary power to issue orders or writs for the enforcement of the fundamental rights and for any other purpose to any person or authority, including in appropriate cases any Government, within its territorial jurisdiction. Under Article 227, it has jurisdiction over all Courts and tribunals throughout the territories in relation to which it exercises jurisdiction. It would be anomalous to suggest that a tribunal over which the High Court has superintendence can ignore the law declared by that Court and start proceedings in direct violation of it. If a tribunal can do so, all the subordinate Courts can equally do so, for there is no specific provision, just like in the case of Supreme Court, making the law declared by the High Court binding on subordinate Courts. It is implicit in the power of supervision conferred on a superior tribunal that all the tribunals subject to its supervision should conform to the law laid down by it. Such obedience would also be conducive to their smooth working; otherwise there would be confusion in the administration of law and respect for law would

irretrievably suffer. We, therefore, hold that the law declared by the highest Court in the State is binding on authorities or tribunals under its superintendence, and that they cannot ignore it either in initiating a proceeding or deciding, on the rights involved in such a proceeding."

Unless subordinate Courts do obey and pay regard to the direction of the High Court, there would be confusion in the administration of law and respect for law would irretrievably suffer. The High Court has always the right to punish the presiding officer of a subordinate Court for disobedience of its orders by action in contempt.

(57) In *State Vs. C.M.L. Bhatnagar, City Magistrate, Raghubar Dayal J. (as he then was) and Sapru J.* stated thus:

"In exercising these powers against such officers we are not extending the scope of the powers of this Court in such matters. The mere absence of any reported cases in which action has been taken against presiding officer of Courts does not necessarily mean that no such jurisdiction ever existed or that no such jurisdiction exists. It really shows that presiding officers of Courts knew in the past what their duties were and what was expected of them in the matter of discipline and show of respect to the orders of superior Courts. It is unfortunate that in recent times the presiding officers of Courts have not shown the same respect and have some times deviated from the right path."

(58) The Presiding Officers of the subordinate Courts are bound to respect and give effect to orders passed by the High Court. In the above decision, Sapru, J. observed:--

"It is regrettable that a person occupying the position of a Magistrate, a person who knows the law and who ought to know to respect the law should have been guilty of the offence of contempt. A contempt committed by an average citizen may be pardonable but committed by a presiding officer of a Court. The first duty of a Magistrate to learn is to obey him. He who cannot obey cannot command."

(59) In *Sultan Ali v. Nur Hussain*, AIR 1949 Lah 131 (FB) a Full Bench of the Lahore High Court has observed that the High Court occupies the status of the highest and most superior Court and so it becomes incumbent on all persons and authorities within its jurisdiction to respect all its orders and submit to it at least in the first instance on the well-known judicial principle fundamental to Courts of justice that any disobedience will be on pain of committal for contempt.

(60) There is ample authority for the proposition that Judges of inferior Courts and Magistrates can be punished for contempt of Court for acting unjustly, oppressively or irregularly in the execution of their duties under colour of judicial proceedings wholly unwarranted by law, or for disobeying writs issued by the High Court requiring them to proceed or not to proceed in matters before them. It is not the province of the subordinate judiciary to be critical of superior Judges to whom they are subordinate. If that were allowed, the administration of justice

cannot function smoothly. The common man will lose regard for the sanctity of the High Court if its directions are disobeyed or criticized by inferior Courts. The idea of judicial discipline rests on the foundations of his discipline and respect for the decisions and directions of the superior Court. If the Subordinate Judges contravene this principle by being undisciplined with no regard for the superior Judge's directions or decision, they cannot be efficient and relied upon for the maintenance of the rule of law. An ordinary citizen may plead that he did not understand the implications of an order of the High Court.

(61) The gravamen of the offence alleged against the 2nd respondent is that by issuing an interim injunction restraining the Election Officer from conducting the election, he obstructed the implementation of the order passed by Mr. Justice Gopalakrishnan Nair. That order directed that the election should be conducted by a person nominated by the Registrar of Co-operative Societies of the status not inferior to that of a Joint Registrar (Farming) Hyderabad, as the Election Officer. The Board of Directors had fixed November 11, 1964, for the conduct of the election.

(62) In the counter-affidavit filed by him the 2nd respondent stated that the High Court merely directed the appointment of an officer of the rank of a Joint Registrar to conduct the election and that there was no specific direction by the High Court that the election should be conducted on November 11, 1964, nor was there any indication in the order of the High Court that no other Court should pass any order in the exercise of its lawful jurisdiction in respect of the said election. The 2nd respondent justified his action by submitting that there was no order of the High Court which required compliance by him.

(63) As soon as the order of the High Court was brought to his notice, it was the clear duty of the 2nd respondent to pause and find out its full implications before he exercised his jurisdiction. It is a matter for regret that subordinate judicial officers should arrogate to themselves superior wisdom.

(64) It is all the more regrettable that the 2nd respondent has tried to justify himself by attempting his own interpretation of the order of the High Court. We are certain that the 2nd respondent took the matter very lightly and, as rightly conceded by his learned counsel. Sri P. Ramachandra Reddy, did not exercise due care and caution in passing the order of interim injunction. This is clear from the fact that the order of the High Court was specifically brought to his notice in the plaint which he says he "glanced through" and on reading the affidavit, he felt that there was "prima facie case" for the petitioner. If so much is conceded, there can be no doubt that the 2nd respondent should have realised that he was passing an order which might not be in conformity with the order passed by this Court on October 30, 1964. Indeed, Sri P. Ramachandra Reddy was not able to find any justification for the attitude adopted by the 2nd respondent, and expressed regret and offered an apology on behalf of the 2nd respondent.

(65) The regret and apology offered by the 2nd respondent through his counsel

relieves us of the duty of dealing with this matter at length.

(66) The question is: Has the 2nd respondent committed contempt?

(67) Following the decision of the Privy Council in *Barton v. Field*, (1843) 4 Moo P. C. C. 273: 13 ER 907 their Lordships of the Supreme Court have laid down in *S.S. Roy Vs. State of Orissa and Others*, that it is not every order passed by a Court in excess of the authority vested in it that would constitute contempt of Court.

In the case before their Lordships, a First Class Magistrate misconceiving his powers and exercising a jurisdiction not vested in him by law and without any justifying circumstances, made an order u/s 144 of the Code of Criminal Procedure, by which a Civil Court peon was restrained from executing a warrant of arrest issued by an Additional Munsif in connection with the execution of a money decree. It was, however, found the Magistrate was not influenced by any extraneous considerations or dishonest motives in making the order, Their Lordships of the Supreme Court pointed out that the Magistrate could not be found guilty of contempt of the Court of the Additional Munsif, because there was nothing to suggest any willful culpability on his part. Their Lordships observed:

"As has been said by the Privy Council in 1843 4 Moo. P. C. 273, it is not sufficient in such cases for the purpose of visiting a judicial officer with the penal consequences of proceeding in contempt, simply because he committed an error of judgment or the order passed by him is in excess of authority vested in him. The error must be a wilful error proceeding from improper or corrupt motives in order that he may be punished for contempt of Court."

(68) As we have already pointed out, the 2nd respondent may have acted without due care and caution but there is no basis for the allegation made against him that he was motivated by extraneous considerations in passing the order which he did, and there is certainly no warrant for attributing any improper or corrupt motives to the 2nd respondent. We, therefore, hold that the 2nd respondent is not guilty of contempt.

(69) It is contended by the learned counsel for the petitioner that the 1st respondent is in contempt for the reason that he is guilty of the abuse of the process of Court. It is argued that the 1st respondent was somehow interested in having the election postponed and the suit filed by him was an abuse of the process of Court. He has invited us to reach this conclusion from the fact that the 1st respondent did not implead the Guntur District Tobacco Growers and Curers Society as a co-plaintiff though he prayed for a declaration in its favour not did he implead the District Marketing Society as a defendant, though the relief sought was really against it.

(70) Abusing the process of the Court is a term generally applied to proceeding which is wanting in bona fides and is frivolous, vexatious, or oppressive. Making use of the process of the Court as a device to help the jurisdiction of a civil Court

has been held to amount to an abuse of the process of the Court.

(71) It may be stated that the 1st respondent made no attempt to suppress material facts. He has referred to order of the High Court in the plaint itself. There was no attempt to deceive the Court. Lord Goddard, C. J., in *R. v. Weisz*, (1951) 2 All ER 408, at p. 412 pointed out as follows:-

"It has never yet been held, however that merely to bring, or cause, to be brought, an action which is an abuse can be treated as a contempt, even though it may have been brought for the purpose of pressure or what may be called "showing up" There may be exceptions, and, to give one instance, if a person who brought an action which was struck out as an abuse again brought exactly the same action, the Court might deal with him for contempt, but that would be because his conduct in bringing the second action amounted to a defiance of the Court."

(72) It is no doubt true that the 1st respondent sought a declaration without impleading the Society, in whose favour he wanted the declaration, as plaintiff. It is also true that he did not impleaded the District Marketing Society as a defendant. But, perhaps, these defects could have been cured by an amendment of the plaint. On a consideration of all the circumstances of the case, we are unable to agree with the petitioner's contention that the 1st respondent is in contempt.

(73) In the result , both the casesm C. C. Nos. 19 and 20 of 1964 are dismissed and the rules discharged. Under all the circumstances, we make no order as to costs in either of the Contempt Cases.

(74) Rule discharged.