
(2010) 04 KAR CK 0061
In the Karnataka High Court
Case No : CCC (Civil) No. 2038 of 2010

Seema Basangouda

APPELLANT

Vs

Panchaksharayya Vastrad

RESPONDENT

Date of Decision : 19-04-2010

Acts Referred:

Citation : (2010) 04 KAR CK 0061

Hon'ble Judges : N. Ananda, J;D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : Anand D. Bagewadi, for the Appellant; Veeresh. H.M. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. Our contempt jurisdiction is invoked to punish the respondents for deliberately not paying certain amount which it was stated to be due to the contractor who had executed some plumbing work in favour of the respondent-Commissioner, Hubli-Dharwad Development Authority, Hubli. Petitioner had invoked writ jurisdiction of this Court though for such purpose this Court will never issue a writ of mandamus for payment of money in favour of persons who are said to have executed some works for public authorities. Writ jurisdiction is not one to be invoked as though it is a jurisdiction akin to an executing Court, for enforcement of payment of money in favour of contractors who claim to have executed some work whether in a proper manner or otherwise in favour of public bodies.

2. Writ jurisdiction can not be utilized as a devise for recovery of moneys becoming due to the execution of certain contractual obligations. The manner of contractors taking the public bodies for a ride by now, is legendary. We take judicial notice of such circumstances.

3. Be that as it may, we do not find any contemptuous act committed by the respondent-Commissioner, HDUA in having deliberately disregarded the order

made in the writ petition reading as under:

Respondent is directed to consider the said representations within a period of three months from the date of receipt of this order. Indeed, if the respondent finds that the claim made by the petitioner is justified, they shall pay the amount to the petitioner forthwith. Petition stands disposed of accordingly.

4. Mr. Veeresh. H.M. learned counsel who claims to have received instructions from the respondent-accused and wants to place his power before us, makes a submission before us to the effect that some payments, in fact have been made subsequent to the passing of the order, dated 01.04.2009 and therefore there is no deliberate intention to violate or disobey the Court order.

5. However, Sri Anand. D. Bagewadi, learned counsel for complainant maintains that the respondent/accused persons have deliberately disobeyed the order of this Court and they should be dealt with, by exercising contempt jurisdiction.

6. As indicated above, we find our contempt jurisdiction is being more abused and misused by all sorts of people and more so by such persons who have entered into some contractual obligations. We strongly deprecate such tendency and therefore we feel it is unnecessary to go into the further merits of this contempt petition. The learned counsel for respondent submits that in compliance with the order in W.P. No. 60648/2009, the respondents have paid the amount on 01.04.2009.

7. We are not very sure as to whether such payment is towards the bonafide entitlement of the writ petitioner contractor for having executed the work in a proper manner or only due to the passed by this Court and because of the present contempt petition. However, we are of the considered view this contempt should be closed. Petition fails.

8. We direct the Secretary, Department of Finance, Government of Karnataka to hold an enquiry in to the matter of payment made by the respondent to the complainant to satisfy himself of the genuineness of the payment as also the entitlement of the complainant to such payment as per the terms of the contract independent of the order passed in the writ petition and if is found so lacking in bonafides on the part of the complainant, to ensure commensurate action to proceed against such persons. Copy of this order to be forwarded to the Secretary, Ministry of Finance, Government of Karnataka, Vidhana Soudha, Bangalore.