

**(1985) 01 DEL CK 0048**

**In the Delhi High Court**

**Case No : Criminal Appeal No. 42 of 1974**

Seven Royals Service and Others

APPELLANT

Vs

Ramesh Chander and Others

RESPONDENT

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**Date of Decision :** 25-01-1985

**Acts Referred:**

**Citation :** (1985) 1 Crimes 600 : (1985) 8 DRJ 289 : (1985) 2 RCR(Criminal) 209

**Hon'ble Judges :** H.C. Goel, J

**Bench :** Single Bench

**Advocate :** V.K. Verma, for the Appellant;

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## **Judgement**

H.C. Goel, J.

(1) This petition has been filed by M/s. Seven Royals Service and its partner Shri G.L. Chadha, petitioners against Shri Ramesh Chander and others u/s 10, 11, and 12 of the Contempt of Courts Act, 1971 read with Section 151 of the Code of Civil Procedure. The plaintiffs/ petitioners had filed a suit against Shri Ramesh Chander and Badri Prashad, respondents No. 1 and .2 for the grant of a permanent injunction against them restraining them, their agents/associates from entering into the factory premises of the plaintiffs/petitioners at B-21, G.T. Karnal Road, Industrial area, New Delhi, and from committing criminal trespass, annoying, insulting, intimidating and laying a Gherao and encroaching upon the personal freedom of the plaintiff-petitioner No. 2 and also from causing any damage to the property of the plaintiffs/petitioners and from putting any obstruction or impediment in the production of the factory and further for restraining the defendants/ respondents, their agents/associates from coming within a distance of 300 yards of the factory premises, as also the residence of plaintiff/petitioner No. 2 at 6/63, Punjabi Bagh, New Delhi. An application for the grant of an ad interim injunction against respondents No. 1 and 2 was also moved by the petitioners along with the suit. On this application after hearing the parties' counsel Shri M.A. Khan, the then Sub Judge 1st Class, Delhi, by his order dated April 15, 1974 passed an order of interim injunction in favor of the e

petitioners. There is an ambiguity in this order whether the order was directed against defendant No. 1 or against defendants No. 1 and 2 i.e. respondents No. 1 and 2. The order reads as below : 1 accordingly restrain defendant (1) from entering the factory premises at B-21, G.T. Karnal Road, Industrial Area, Delhi and residence of plaintiff No. 2 at 6/23, Punjabi Bagh, New Delhi, (2) from holding demonstration outside the above said factory premises and the residence of plaintiff No. 2 within 30 meters of the premises. (3) they are further restrained from obstructing the free passage for ingress and egress from the factory premises and the residential premises above said, (4) from annoying, insulting and intimidating and using filthy language against the plaintiff." The plaintiffs petitioners then moved an application under Order 39 Rule 2(3) of the CPC alleging contravention by respondents Nos. 1 and 2 of the said injunction order as passed by the court and praying for action being taken against them under that provision. That application was, however, directed to be heard along with the suit by the order of the Court dated March 17, 1977. The suit was ultimately dismissed in default of the plaintiffs' appearance on May 16, 1977 when the counsel for the defendants was present. The present petition was moved by the petitioners in this Court on May 29, 1974. It may also be pointed out here that no orders were passed on the application of the petitioners under Order 39 Rule 2(3) of the CPC and that application was consigned to the record room along with the main suit. It is alleged in this petition that petitioner No. 2 had forwarded a copy of the said injunction order as passed by the court of Shri M.A. Khan to the SHO, PS Punjabi Bagh, New Delhi, and had requested him to take adequate steps for the enforcement of that order and to prevent the breach of peace which was threatened by respondents No. 1 and 2. The SHO had sent four police officers on duty on April 15, 1974 at 6.00 P.M. at the residence of petitioner No. 1. Respondents No. 1 and 2 along with about 200 persons including respondents No. 3 to 14 came right up to the gate of the house of petitioner No. 2 and staged a demonstration there during the period 6.30 p.m. to 9.00 p.m. on the same date i.e. April 15, 1974. The police officers on duty and the petitioner No. 2 informed respondents No. 1 and 2 in the presence of other respectable persons of the locality, namely S/Shri Inder Sam Oberoi, Manshi Ram Sethi, Harbans Singh and Behari Lal Wadhwa of the aforesaid injunction order of the court. The order of the court was also read out to the persons who had gathered in front of the house of petitioner No. 2, the respondents and particularly respondents No. 1 and 2, after hearing the order stated they did not care for such orders and they had seen several such like orders and in spite of that they staged a demonstration in front of the house of petitioner No. 2 wherein they raised slogans insulted and annoyed petitioner No. 2 and used filthy and abusive language against petitioner No. 2. They also intimidated petitioner No. 2 by stating that they would not spare him if he came out of his house. It is also alleged that the respondents announced through loudspeaker that they would again hold a demonstration with a group of persons in a still bigger number than what was then done outside the residence of petitioner No. 2. They also threatened that they would bury the ashes of the effigy of petitioner No. 2

outside the residence and in the demonstration they burnt the effigy of petitioner No. 2. The other allegations are that five representatives of the respondents had been sitting outside the house of petitioner No. 2 and had obstructed his way whenever he made an attempt to take out his car from out of his house. It is stated that this state of affairs continued up to April 23, 1974. It has also been alleged that the demonstrators had brought mashals, they burst crackers and in the demonstration they beat drums also. This petition is supported by an affidavit of petitioner No. 2 himself.

(2) A notice of this petition was duly served on some of the respondents. Mr. S.B. Sher Singh Advocate appeared for respondents No. 1, 2 and 4. The petitioner counsel had stated that he did not press the petition against respondents No. 8 to 14 and later against respondent No. 7 also. By the order of Jagdish Chandra, J. dated February 15, 1984 the petition was listed for hearing on March 1, 1984 and has been on board since then. The petition came up for hearing before me on January 23, 1985 and on January 24, 1985. Mr. V.K. Verma, Advocate appeared on behalf of the petitioners. None however, appeared on behalf of any of the respondent's on any of the dates till now.

(3) I have heard Mr. V.K. Verma learned counsel for the petitioners in the petition. Mr. Verma submitted that he does not press his petition against respondents No. 3 to 6 as well and presses the same only against respondents No. 1 and 2 who were the two defendants in the suit. As pointed out by me already above there is an ambiguity in the order of the court dated April 15, 1974 and it is not very clear from the order if the injunction order was granted against both defendants No. 1 and 2 or it was granted against defendant No. 1 alone. The court probably wanted to issue injunction order against both defendants No. 1 and 2. However, the word "defendant 1" only appears after the words "I accordingly restrain" in the operative part of the order. I think it would be in the fitness of things if for disposing of this petition it is assumed that the injunction order was against defendant No. 1 alone. That being so, the petition fails as against respondent No. 2.

(4) Now as regards the respondent No. 1 the aforesaid averments of the petitioners are supported by the affidavit of petitioner No. 2. No attempt has been made by respondent No. 1 to file any counter affidavit to the affidavit of petitioner No. 2. Under these circumstances the averments as made by the petitioners in their petition which is supported by the affidavit of petitioner No. 2 shall be assumed as correct. These allegations certainly and clearly go to show that "respondent No. 1 was duly informed of the aforesaid injunction order of the court by petitioner No. 2 as also by the police officers who were deputed by the SHO, Police Station Punjabi Bagh to safeguard the injunction order of the court. Respondent No. 1, however, flouted the same and committed gross violation thereof by indulging in staging a demonstration right at the door of the house of petitioner No. 2 wherein he and his associates indulged in using filthy and abusive language and threatened petitioner No. 2 and his egress out of the

house was also blocked. " All this was a breach of the injunction order as granted by the Court in favor of the petitioners and against respondent No. 1. This act of respondent No. 1 thus clearly amounts to a contempt of the court subordinate to this court. Respondent No. 1 is thus clearly guilty of contempt of court as punishable u/s 12(1) of the Contempt of Courts Act, 1971 and I convict him there under.

(5) Now comes the question of awarding sentence to the contemner. It is to be noted that the entire civil litigation between the parties out of which these contempt proceedings arose had come to an end as far back as on May 16, 1977. This contempt petition has remained pending for the last over ten years. The matter is thus a very old one. However, at the same time, it is also to be taken note of that the contemner has committed a deliberate act which was in clear violation of the injunction order of the Court. He had ample opportunity to withdraw from the scene of occurrence and to put an end to the demonstration when he was informed of the order of the court. The contemner, however, persisted in the impugned acts and continued the same for a pretty long time. No appearance has also been put in on behalf of the respondent No. 1 on any of the three days from January 23, 1985 till today during which period the petition was heard. Thus having regard to the totality of the facts and circumstances of the case I think the ends of justice would be met if the contemner is sentenced to a fine of Rs. 200.00 only. In default of payment of fine the respondent No. 1/contemner would undergo simple imprisonment for 15 days. The registry shall take necessary steps for recovering the fine as imposed on the contemner.