

(1986) 08 AHC CK 0067

In the Allahabad High Court

Case No : Civil Misc. (Contempt) Petition No. 315 of 1985

Smt. Bano

APPELLANT

Vs

Ram Autar Gautam, Circle Officer and Others

RESPONDENT

Date of Decision : 04-08-1986

Acts Referred:

Contempt of Courts Act, 1971 — Section 20

Citation : (1987) CriLJ 647

Hon'ble Judges : R.A. Misra, J

Bench : Single Bench

Advocate : Rajendra Asthana, for the Appellant; P. Misra, for the Respondent

Final Decision : Dismissed

Judgement

R.A. Misra, J.—This petition has been moved with the prayer that coverings for civil contempt be initiated against the Respondents and they may be punished for having committed civil contempt by willfully disobeying orders of this Court. The petition was presented on 2nd August, 1985 and on that day was directed to be listed along with the record of Writ Petition No. 11268 of 81. It came up before the Court on 16th August, 1985 and on that day following order was passed:

Let a copy of this application be sent to Sri Jagdish Singh Chauhan, S.S.I. Police Station Kotwali. Farrukhabad to show cause as to why this application be not admitted.

This petition has not been admitted so far and is listed for admission.

2. I have heard the learned Counsel for the Petitioner.

3. The period during which proceedings for civil contempt could be initiated has expired on 29th July, 1986. The learned Counsel for the Petitioner has urged that proceedings for civil contempt have already been initiated by this Court vide its order dated 16th August 1985 quoted above. He has relied on Ram Prakash and Bros, v. Nagar Mahapalika Lucknow, 1983 AWC 29, wherein it has been held

that where the order of the court in contempt petition like this is a short one in two words viz. " Issue Notice " then by issuing notices the court calls upon the notice to show-cause why the relief claimed against him in the petition should not be granted and this is all that is required for initiation of proceedings. I am in agreement with the aforesaid view with a slight clarification that where the order of the court in such petitions is in two words " Issue notices " then it connotes that the Court has decided to at" action and called upon the alleged condemner to show cause why he not punished for the alleged contempt. The order may not be an speaking one, the charge as required may not have been framed but it makes clear that saying that notices be issued the court directs the office to issue notices required Under Rules. So I agree with the learned Counsel for the petitioner. that where the court directs that notices be issued then if there is nothing more to show as to what for the notices are going to be issued then notices will go requiring the alleged condemner to show cause why he not be punished and that amounts to a decision to take action and so amounts to the initiation of the proceedings and taking of the cognizance of the matter. Unfortunately in the instant case the order is not so simple as discussed above. By the order in this case it is clear that the court wants to give an opportunity to the alleged condemner to showcause why application not be admitted, meaning thereby to show- cause why proceedings for civil contempt not be initiated. In *Baradakanta Mishra Vs. Justice Gatikrushna Misra*, Chief Justice of the Orissa High Court, it has been held that " it is only when the Court decides to take action and initiates a proceeding for contempt that it assumes jurisdiction to punish for contempt. The exercise of the jurisdiction to punish for contempt commences with the initiation of a proceeding for contempt whether stomata or on a motion or a reference. That is why the terminus a quo for the period of limitation provided in Section 20 is the date when a proceeding for contempt is initiated by the Court. " In the instant case it is obvious from the aforesaid discussions that the court has not yet decided to take action for contempt against the condemner and to proceedings have not yet been initiated and as observed above, the period during which such proceedings could be initiated has expired on 29.7.1986. It not possible to initiate proceedings thereafter. The prayer for the same consequently rejected.