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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF NOVEMBER, 2022

PRESENT

THE HON'BLE MR. JUSTICE B. VEERAPPA

AND

THE HON'BLE MRS. JUSTICE K. S. HEMALEKHA

CIVIL CONTEMPT PETITION NO.2019 OF 2018

BETWEEN:

1. SMT. PARVATHAMMA,
W/O LATE KALE GOWDA,
AGED 69 YEARS,
RESIDING AT KURAHATTI VILLAGE,
KALENAHALLI POST, KASABA HOBLI,
PANDAVAPURA TALUK,
MANDYA DISTRICT-571 431.

...COMPLAINANT

(BY SRI ANJAN KUMAR B. N., ADVOCATE)

AND:

1. MUNISH MOUDGIL
THE COMMISSIONER,
THE LAND SURVEY AND LAND RECORD DEPARTMENT,
K.R. CIRCLE,
BENGALURU-560 001.
2. N. MANJUSHREE
I.A.S.,
DEPUTY COMMISSIONER,
MANDYA-571 431.
3. PRAMOD L. PATIL
TAHASILDAR,





PANDAVAPURA TALUK,
MANDYA -571 431.

...ACCUSED

(BY SRI K.S. ARUN, H.C.G.P.)

* * *

THIS C.C.C. IS FILED UNDER SECTIONS 11 AND 12 OF THE CONTEMPT OF COURTS ACT, 1971, BY THE COMPLAINANT, PRAYING TO INITIATE CONTEMPT PROCEEDINGS AGAINST THE ACCUSED FOR THEIR WILLFUL, DELIBERATE FAILURE TO COMPLY THE ORDER DATED 24-7-2014 PASSED BY THIS COURT IN WRIT PETITION NO.9606 OF 2014.

THIS C.C.C. IS COMING ON FOR ORDERS THIS DAY, **B. VEERAPPA J.,** MADE THE FOLLOWING:

ORDER

It is yet another case, where the Authorities under the State are showing disrespect to the Court orders passed in the year 2014.

2. The complainant is a senior citizen, aged 69 years, has filed the present contempt petition under the provisions of Sections 11 and 12 of the Contempt of Courts Act, 1971, to take action against the accused for willful disobedience of the order dated 24-7-2014 made in Writ Petition No.9606 of 2014 (KLR-RR/SUR), wherein the learned Single Judge directed the respondents or the competent authority to conduct survey, phodi and durasthi work in respect of land bearing Survey



No.123/PAI-P4 of Vadesamudra Village, Kasaba Hobli, Pandavapura Taluk, Mandya, in accordance with law, within a period of nine months from the date of receipt of a certified copy of the order.

3. Since the accused have not complied with the order passed by the learned Single Judge, the complainant was forced to file the present contempt petition on 24-9-2018. On 26-9-2022, Smt. Nayana S.L., Tahasildar, Pandavapura Taluk, Mandya, has filed Affidavit. At paragraph Nos.4 to 6, she has stated as under:

"4. It is submitted that Assistant Director of Land Records has concluded the Phodi and Durasthi work as per Government Circular No.RD93 LGP 79 dated 20.03.1980 and based upon actual possession and enjoyment Phodi and Durasthi work is completed and Survey No.287 is reassigned to an extent of 2 acres and 3 guntas. Copy of the Government Circular and copy of the sketch are herewith produced at Annexures - R1 & R2 respectively. Also the complaint at the time of spot inspection has given consent for completion of phodi and durasthi work as per actual possession of enjoyment. Copy



of the said consent letter is produced at Annexure - R3.

5. I most respectfully state that in compliance of the order passed by this Hon'ble Court wherein completed the entire process of Phodi and Durasthi and have reassigned the survey number of the land of the complainant as Survey No.287. After completion of the process of Phodi and Durasthi, we have also passed necessary Mutation Register orders and now reassigned Sy.No.287 to an extent of 2 acres 3 guntas is also entries in the Mutation Registrar extracts are produced herewith at Annexures - R4 & R5 respectively.

6. I most respectfully submit that there is some delay in complying with the order passed by this Hon'ble Court. The said delay is primarily on account of administrative exigencies and since survey had to be conducted on the very vast extent of land including adjacent forest land, some time was consumed in completing the process of Phodi and Durasthi work. The delay caused is not intentional, but due to aforesaid reason."

4. The order passed by the learned Single Judge as long back as on 24-7-2014 directing the respondents or the competent authority to conduct survey, phodi and durasth work



in respect of land bearing Survey No.123/PAI-P4 of Vadesamudra Village, Kasaba Hobli, Pandavapura Taluk, Mandya, in accordance with law, within a period of nine months from the date of receipt of a certified copy of that order. The complainant has sent the certified copy of that order along with the representation on 23-9-2014 to the Tahasildar and the Tahasildar ought to have passed order on or before 25-6-2015. Since the same has not been done, the complainant was forced to file the present contempt petition as last resort.

5. A careful perusal of the affidavit filed by the Tahasildar, who took charge on 29-4-2022, clearly depicts that sketch was prepared as per Annexure-R2 on 10-2-2022 and mutation entries as per Annexures-R4 and R5 were made on 7-9-2022, i.e. after lapse of eight years from the date of original order and four years from the date of filing of the present contempt petition.

6. This clearly indicates that Authorities, under the State Government have no respect for the Court orders. In view of the orders passed by this Court, the State Government issued



Circular on 31-1-2022 directing the Authorities to comply with the order within time and any person violating the order, he has to face the Departmental Enquiry **music**. The Circular dated 31-1-2022 issued by the State Government consist of twelve guidelines, which reads as under:

"GOVERNMENT OF KARNATAKA

No LAW-LAM/14/2022 Karnataka Government Secretariat,
Vidhana Soudha,
Bengaluru, dated: 31.01.2022

CIRCULAR

Sub: Fixing of time limits and responsibilities at each stage of court cases where the Government, Boards/Corporations or Authorities or Autonomous Institutions are the party - reg

* * *

In view of the directions of the Hon'ble High Court of Karnataka in the order dated 13.1.2022 in CCC (Civil) No.560/2021, Government of Karnataka in order to protect the rule of law and to protect the rights of the citizens under Articles 14 and 21 of the Constitution of India and to protect the Interest of State, the following guidelines are issued:-

1. Whenever the Court passes orders, if the orders are not In consonance with law, the authorities aggrieved should file an appeal within the time stipulated.



2. Once the order passed by any Court or authority reaches finality, the authorities are bound to implement the order in letter and spirit, unless, it is set aside by the higher authorities or higher courts in the interest of the citizens, to clean administration and in the interest of the State Government.
3. The aggrieved persons approaches the Court by filing a contempt proceedings as a last resort considering the Court as temple of justice and the authorities unnecessarily cannot be allowed to adopt delay tactics on the ground to file appeal or to file review or to seek time before the Court, which is impermissible.
4. Ignorance of Court orders by the authorities of the State Government has to be deprecated and dealt with seriously to protect the rule of law.
5. If there is no compliance of direction within the time stipulated, it amounts to willful disobedience of the order and will result in contempt of court. Even if there is compliance of order after initiation of contempt proceedings, it will not absolve the officer concerned from his/her liability under the Contempt of Court Act.
6. The Principal Secretaries of the department concerned shall direct initiation of disciplinary



proceedings against the erring officers who neglect to comply with the orders of the court willfully.

7. The misconduct of a Government servant in non compliance of the directions issued by the court shall be dealt with firmly and it shall be entered in the service records of the Government Servant concerned.
8. If the officer concerned involve in two or more such contempt of court/s by disobeying the court orders, necessary action shall be initiated against him departmentally.
9. The officer concerned shall be held personally liable for any fine and consequences thereof, as the State Government is not liable to pay fine from out of the tax payers money (citizens).
10. When an undertaking/submission is made by the learned counsel representing the Government with instructions from the officer/official concerned, non-compliance of such undertakings/submission will be viewed very seriously.
11. All the activities and actions shall be done in due conformity and in accordance with "The Karnataka Conduct of Government Litigation Rules, 1985".
12. The step by step responsibilities, time limits and machinery to follow-up on cases including the compliance of any interim or other orders of



Hon'ble High Court Karnataka, Hon'ble Supreme Court of India and Hon'ble Karnataka State Administrative Tribunal shall be as per the Government Order No.DPAR AR-KTv/149/2019 dated 6.12.2020 and addendum dated 16.12.2020.

All Additional Chief Secretaries/Principal Secretaries/ Secretaries to Government and Heads of Departments are requested to follow these instructions strictly and monitor the government litigation pending before District Judiciary, Hon'ble High Court of Karnataka and Supreme Court of India.

Sd/-
(P. RAVIKUMAR)
Chief Secretary to Government"

7. Unfortunately, Authorities or the State Government has issued Circular only on paper. The Authority, namely the Tahasildar, has not implemented the Circular, or the Court orders.

8. Though the order passed by the learned Single Judge is of the year 2014, we are now in the end of November, 2022, More than eight years have been lapsed, the Authorities never acted to comply with the order, within the time stipulated thereby they have shown deliberate willful disobedience to the



order passed by this Court. It is well settled that Authorities of the State Government, namely the Tahasildars, who are acting as Revenue Authorities under the provisions of Land Revenue Act are under constitutional duty coupled with power. Every public servant is a trustee of the society and in all facets of public administration, every Government servant has to exhibit honesty, integrity, sincerity and faithfulness in implementation of the political, social, economic and constitutional policies to integrate the nation, to achieve excellence and efficiency in the public administration. Government or its authorities, who are entrusted with duty and power to implement constitutional policy under Articles 14, 21 and 300 of Constitution of India, and all inter-related directive principles of state policy under the Constitution, should exhibit transparency in implementation and of accountable for due effectuation of constitutional goals.

9. Though Circular was issued by the State Government and repeated orders having been passed by this Court, the State Government has not taken any action against any of the Officers, who have not implemented the Court order in time including the concerned Officer in the present case. After lapse



of four years of filing of the present contempt petition, now, the accused filed compliance affidavit, that too, after several hearing dates before this Court and thereby, this Court has become executing Court in the contempt proceedings. It is high time for the State Government to implement its own Circular dated 31-1-2022 against the erring Officer and to ensure that orders of the Court shall be complied with, otherwise, people will lose confidence in the judicial system.

10. Like any other organ of the State, the judiciary is also manned by human beings, but the function of the judiciary is distinctly different from other organs of the State-in the sense its function is divine. Today, the judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock at all the doors fail, people approach the judiciary as the last resort. It is the only temple worshipped by every citizen of this nation, regardless of religion, caste, sex or place of birth. Because of these kinds of Officers in the State and because of the inaction on the part of the Authority-Tahasildar in non-implementation of the Circular by the State Government from time to time, the



people will lose confidence in the judicial temple and it should not happen. It is high time for the State Government to raise an occasion to take stringent action against such Officers of the State. Otherwise, there will be no end for such litigations and welfare to the citizens of the State.

11. In the present case, the learned Single Judge passed order on 24-7-2014 directing the accused or the competent authority to conduct survey, phodi and durasthi work in the land in question within nine months, i.e. on or before 25-7-2015. However, the same has been complied with, after lapse of eight years. The complainant who is senior citizen was forced to file the present contempt petition by engaging the services of the counsel by spending litigation expenses, and faced mental trauma because of not implementing the court order for more than eight years. Thereby the concerned Tahasildars have willfully disobeyed the orders from 24-7-2014 till 10-2-2022. For the said act of dereliction of the duty, the Tahasildars, who were holding posts from 24-7-2014 till 10-2-2022, are proportionately liable to pay cost of Rs.3,00,000/- from their personal pockets to the complainant and the Deputy



Commissioner, Mandya, shall collect the said litigations costs from the concerned Tahasildars and to record the same in their respective Service Records, and to ensure to pay the said costs to the complainant within one month from the date of receipt of a copy of this order, failing which, serious action will be taken against the Deputy Commissioner, who is also a party to this contempt petition.

12. In view of the above, we pass the following:

ORDER

- i. The contempt proceedings are hereby ***dropped***, subject to deposit of costs of Rs.3,00,000/- (Rupees three lakh only) by the Tahasildars concerned, who were holding posts from *24-7-2014 till 10-2-2022. The Deputy Commissioner shall collect the said costs proportionately and pay the same to the complainant within one month from the date of receipt of a certified copy of this order and file an acknowledgment before this Court, failing which, list this matter after one month for further orders.

*Correction carried out vide Chamber Order dt.09.12.2022



- ii. Further, the costs collected from the Tahasildars concerned shall be recorded in their respective Service Records.

13. The Registrar Judicial is directed to send the copy of this order to :-

- a) The Chief Secretary to State Government ;
- b) Principal Secretary to Government, Revenue Department, Vidhana Soudha, Bengaluru;
- c) The Deputy Commissioner, Mandya; and
- d) The Tahasildar, concerned for implementation of this order within the time stipulated.

**SD/-
JUDGE**

**SD/-
JUDGE**

KVK