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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE

&
HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 16th OF JANUARY, 2024

WRIT APPEAL No. 664 of 2022

BETWEEN:-

MISS. GUNEETA KAUR D/O LATE SMT. KRIPAL KAUR,
AGED ABOUT 71 YEARS, 16 SHRI MAA ANANDMAYI
BHAWAN, OLD DAIRY FARM BAIRAGARH, HUZUR
DISTRICT BHOPAL (MADHYA PRADESH)

.....APPELLANT

(BY SHRI SANJAY KUMAR AGRAWAL - ADVOCATE)

AND

1. V.M. SINGH S/O SHRI MANINDER SINGH, AGED ABOUT 61 YEARS, W-127 GREATER KAILASH 2 NEW DELHI (DELHI)
2. SHRI MANISH RASTOGI PRINCIPAL SECRETARY REVENUE DEPARTMENT GOVERNMENT OF MADHYA PRADESH MANTRALAYA VALLABH BHAWAN BHOPAL DISTRICT BHOPAL (MADHYA PRADESH)
3. SHRI AVINASH LAVANIYA COLLECTOR BHOPAL DISTRICT BHOPAL (MADHYA PRADESH)
4. SHRI GULAB SINGH BAGHEL TEHSILDAR DISTRICT HUZUR DISTRICT BHOPAL (MADHYA PRADESH)

.....RESPONDENTS

(SMT. SHOBHA MENON - SENIOR ADVOCATE WITH SHRI UMESH TRIPATHI - ADVOCATE FOR RESPONDENT NO.1 AND SHRI K.C. GHILDIYAL - SENIOR ADVOCATE WITH SHRI MANEESH KHOLIA AND MS. WARIJA GHILDIYAL - ADVOCATES FOR INTERVENOR.

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This appeal coming on for orders this day, Hon'ble Shri Justice Ravi Malimath, Chief Justice passed the following:

ORDER

I.A. No. 16040 of 2023 is an application seeking vacation of interim order dated 27.06.2022. In terms whereof, the order passed by the learned Single Judge dated 11.05.2022 in Conc No. 428 of 2021 and all further proceedings were stayed.

2. It is contended by the respondents that orders that were passed by the High Court of Delhi were subsequently confirmed by the Hon'ble Supreme Court in the orders mentioned therein. None of this has been taken into account when the accused Tehsildar has passed the order. Therefore, it amounts to contempt.

3. The same is disputed by the appellant on the ground that there is absolutely no disobedience that has been committed. The learned Single Judge has only directed the consideration of the application of the writ petitioner in accordance with law by passing a reasoned and speaking order positively within a further period of four weeks from the date of receipt of the copy of the order. This is exactly what the Tehsildar has done. Therefore, he cannot be blamed for the same.

4. At request of learned counsels, the matter is taken up for final disposal.

5. The learned Single Judge by order dated 03.03.2020 in W.P. No. 5227 of 2020 held as follows:

"This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking implementation of the order dated 25.08.1983 passed by the High Court, Delhi (Annexure P/5), which has also been affirmed by the Hon'ble Supreme Court vide order dated 07.10.2005. Pursuant to the aforesaid order, an application for

implementation under Section 109 and 110 of the M.P. Land Revenue Code (Annexure P/19) has been filed by the petitioner before Tahsildar, Tahsil Huzur, District Bhopal but till date, the same has not been decided.

Learned G.A. for the respondent/ State has submitted that the aforesaid application shall be decided in accordance with law.

In view of the aforesaid, the petition stands disposed of with direction to respondent No.3 i.e. Tehsildar, Bhopal to decide the aforesaid application dated 14.10.2019 (Annexure P/19) in accordance with law by passing a reasoned and speaking order positively within a further period of four weeks from the date of receipt of certified copy of this order.

Accordingly, the petition stands disposed of."

6. Thereafter, the Tehsildar has passed the order dated 13.07.2020. In pursuance whereof, the contempt petition has been filed by the original writ petitioner.

7. The learned Single Judge went into the discussion with regard to the orders passed by the High Court of Delhi confirmed by the Hon'ble Supreme Court etc. The learned Single Judge also went into the order of the Hon'ble Supreme Court with regard to certain observations on facts. Thereafter, he came to the conclusion that the factum of the judgment and decree passed by the High Court of Delhi having become final on the same being approved by the Hon'ble Supreme Court, has not been considered by the Tehsildar. That the Tehsildar has not complied with the order which has been passed in the writ petition in its letter and spirit.

8. On considering the contentions, we do not find that any contempt has been committed. The order of the learned Single Judge is quite clear. It has only been narrated therein that the respondent Tehsildar shall consider the application

of the writ petitioner dated 04.10.2019 in accordance with law by passing a reasoned and speaking order positively within a further period of four weeks from the date of receipt of the copy of the order. The Tehsildar having passed the order, we do not find that any contempt would arise thereon. The finding recorded by the learned Single Judge, in our considered opinion, is unwarranted. The contempt court, in our considered opinion, cannot get into the facts and circumstances involved as to how the original order has been passed, what is the intention therein, what are the contents therein etc. If at all the learned Single Judge was of the view that these are the facts and circumstances involved and declares the law and thereafter directs the concerned authority to consider the application, in that event, probably the respondents herein would have been justified in contending that contempt has arisen. However, we do not find that the same has happened herein. The order passed by the learned Single Judge is only a mere consideration. However, the learned Single Judge has gone into the facts and the law in quite a detail. This, we find, was beyond the jurisdiction of the contempt court.

9. The contempt court would only decide as to whether the order complained of therein has been disobeyed or not. Beyond that, the contempt court would not have any jurisdiction to pass such orders in a contempt petition to justify the order was passed in the writ petition. Therefore, we find that the approach employed therein is not correct. The contempt court is entitled only to consider whether there is a willful disobedience or not and nothing else. It cannot record finding on facts or on law and thereafter come to the conclusion by explaining the order passed by the writ court.

10. Therefore, we find that none of the findings recorded by the learned Single Judge is just and appropriate. The question of initiating contempt

proceedings by justifying the facts and the law in a proceeding for contempt is inappropriate.

11. We would like to reiterate that the jurisdiction of the contempt court is limited. It is limited to an extent of finding out as to whether there has been a willful disobedience or not. The answer to that could be in the positive or the negative. The contempt court cannot go into re-appreciation of facts or law or grant extension of time or to pass any other order. It is beyond its jurisdiction. Therefore, no such order could be passed by the contempt court except to find out as to whether any contempt has been committed or not.

12. For all these reasons the appeal is allowed. The order dated 11.05.2022 passed by the learned Single Judge in Conc. No. 428 of 2021 is set aside. Consequently, Conc. No. 428 of 2021 is dismissed.

13. Learned counsels for the respondents herein seek liberty to file a review petition or such other petition that they may desire. Prayer is accepted. With the aforesaid liberty, the contempt petition is dismissed.

(RAVI MALIMATH)
CHIEF JUSTICE

MSP

(VISHAL MISHRA)
JUDGE