



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3565]

TUESDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE BATTU DEVANAND
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**

CONTEMPT APPEAL NO: 15/2021

Between:

1.KOPPERA SUBBA RAO @ KOBARI SUBBA RAO, EX-SARPANCH,
KANKANALAPALLI GRAM PANCHAYAT, SATTENAPALLI MANDAL,
GUNTUR DISTRICT.

...APPLICANT

AND

1.VUNNAM SRINIVASA RAO, S/o Ramaiah, aged about 52 years, Occ.
Contractor, R/o Janapadu Village, Piduguralla Mandal, Guntur District.

...RESPONDENT

To allow the Contempt Appeal by setting aside the order dated 23.10.2021
passed in CC No. 2289/2017 and to pass.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in
the affidavit filed in support of the petition, the High Court may be pleased To
suspend the operation of order dated 23.10.2021 passed by the learned single
Judge in CC. No. 2289/2017 in WP. No. 21026 of 2017 pending disposal of he
Contempt appeal and to pass.

Counsel for the Applicant:

1.RAMA CHANDRA RAO GURRAM

Counsel for the Respondent:

1.D KRISHNA MURTHY

The Court made the following:

THE HON'BLE SRI JUSTICE BATTU DEVANAND
AND
THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CONTEMPT APPEAL No:15 OF 2021

JUDGMENT: (per Hon'ble Sri Justice Subhendu Samanta)

1. The instant contempt appeal has been preferred against the order, dt.23.10.2021 passed by a learned Single Judge of this Court in C.C. No.2289 of 2017, whereby and whereunder the learned Single Judge sentenced the appellant herein to undergo simple imprisonment for four (04) weeks and to pay a fine of Rs.2,000/- (Rupees two thousand only) payable within a period of two weeks from the date of receipt of the order. Failing which to undergo further two (02) weeks simple imprisonment.
2. For convenience, the parties will hereinafter be referred to as they were arrayed in the writ petition.
3. The brief facts of the matter are that the petitioner undertook civil works sanctioned under MGNREGS in respect of Kankanalapalli Village, Sattenapalli Mandal, Guntur District. He approached this Court by way of writ petition being W.P. No.21026 of 2017 on the ground that a sum of Rs.8,86,940/- had been withheld from the amounts payable to him by the respondents. This Court, vide order dated 30.06.2017, in W.P.No.21026 of 2017, after recording the submissions of the learned Government Pleader and the learned Standing Counsel that the said amount had been withheld

on account of pending social audit and the same amount would be refunded upon completion of the social audit, had disposed of the writ petition with a direction to the respondents to settle the same within a period of one month from the date of receipt of a copy of the said order.

4. By filing the contempt case, the petitioner again approached this Court on the ground that the petitioner was entitled for refund of Rs.8,86,940/- out of an amount of Rs.9,00,202/- which was released by the Executive Engineer, Panchayat Raj Division-I, Guntur, by way of a cheque bearing No.262285, dt.31.03.2017, which was deposited into the bank account of the Gram Panchayat, but was not being released to him by respondents 5 and 6.
5. It was contended before the learned Single Judge that respondents 5 and 6 are deliberately withholding the money for more than six months with a mala fide intention and for extraneous reasons, as the petitioner was not willing to accede to the demand of respondents 5 and 6, who are asking for share of 25% of the said amount. The 5th respondent is the Sarpach and the 6th respondent is the Panchayat Secretary of Kankanalapalli Village. Both the respondents contested the contempt case by filing separate counter affidavits.
6. The 6th respondent contended in his counter-affidavit that the petitioner was never entrusted the contract work under MGNREGS and the

contractors cannot be engaged to take up any of the works carried out under the National Rural Employment Guarantee Act, 2005.

7. On the other hand, the 5th respondent, though initially filed counter adopting the counter of the 6th respondent, has admitted that though the Panchayat Raj Department had estimated the value of the work to be done within the Gram Panchayat, under 7 packages, at Rs.2,21,50,000/-, but the petitioner submitted bid only for Rs.98,77,206/-. It is further contended in the additional counter affidavit of the 5th respondent that the petitioner was paid an amount of Rs.1,68,66,558/-. It is further contended that no amount was due to the petitioner. As such, non-payment of the amounts claimed by the petitioner would not amount to a violation of the order of the Court.
8. During hearing of the matter before the learned Single Judge, the learned counsel for the petitioner has placed bank statement produced by respondents 5 and 6 which clearly shows that the amount of Rs.9,00,202/- was deposited into the bank account of Gram Panchayat on 17.04.2017. The said amount was withdrawn by the 5th respondent Sarpanch on the ground that the 5th respondent had done some other works for the Gram Panchayat. Accordingly, the said money was being released in favour of the 5th respondent.
9. The learned Single Judge after hearing the parties is of the view that respondents 5 and 6 have deliberately and willfully violated the order of

the Court. The 6th respondent, who was the Panchayat Secretary, was working under the 5th respondent had succumbed to the pressure of the 5th respondent and was not taken any stand independent of the 6th respondent. As such, the learned Single Judge has finally opined that respondents 5 and 6 are guilty of having violated the directions of the Court dated 30.06.2017 in W.P.No.2102 of 2017. Accordingly the order of punishment was passed as follows:

“15. Accordingly the Contempt Case is partly allowed. The 5th respondent, who appropriated the funds payable to the petitioner by misusing his position as the Sarpanch of the Gram Panchayat, is sentenced to undergo simple imprisonment for four (4) weeks and a fine of Rs.2,000/- (Rupees two thousand only) payable within a period of two weeks from the date of receipt of this order failing which he shall undergo simple imprisonment for two weeks in lieu of payment of fine.

16. The 6th respondent, who violated the directions of this Court under the pressure and influence of the 5th respondent, is sentenced to pay a fine of Rs.2,000/- payable within two weeks from the date of receipt of this order failing which he shall also undergo simple imprisonment for two weeks.”

10. The learned counsel for the respondents submits that the order of punishment passed by the learned Single Judge is contrary to law and facts on record. He further submits that the learned Single Judge has not clearly appreciated the entire facts and circumstances of the case and passed the erroneous order of conviction. He also submits that the learned Single Judge should have held that there is no willful violation of the order of the Court by the other respondents.

11. The learned counsel for the petitioner submits that respondents 5 and 6 have willfully and deliberately violated the order of the Court by appropriating the money which was released by the Panchayat Raj Department.
12. Heard the learned counsel for the parties.
13. From the grounds of instant contempt appeal, it appears that the grounds actually suggest the legality of the order of the learned Single Judge which has passed in the writ petition being W.P. No.21026 of 2017 vide order dt.30.06.2017. Time and again it has been argued by the learned counsel for the respondents that the learned Single Judge should uphold that there is no due to be paid by the respondents. It is further argued that there are no written contract for works in question between Gram Panchayat and petitioner. It has been further argued that the tender amount has already been paid to the petitioner.
14. In the instant contempt appeal, this Court has to ascertain whether the order passed by the learned Single Judge in contempt case was justifiable or not. In deciding the same, this Court cannot enter into the merit of this matter. If the 5th respondent/appellant herein was aggrieved by the order of the learned Single Judge passed in W.P. No. 21026 of 2017, he ought to have approached the appropriate appellate forum by filing an appeal against the said order. The 5th respondent/ appellant did not approach the

appellate forum. Instead, in the contempt proceedings, he sought to reopen the issues already decided in the writ petition.

15. In our view, a Court dealing with a contempt case can verify following points only:-

- I. Whether order under contempt was properly communicated to alleged contemnor;
- II. When such order was communicated;
- III. Whether alleged contemnor is in a position to understand the directions of the Court;
- IV. Whether alleged contemnor is in a position or authority to comply the order;
- V. Whether alleged contemnor within his authority acted diligently to comply the order in its true letter and spirit.
- VI. Whether there are willful latches and disobedience on the part of the alleged contemnor to comply the order.

16. Following points cannot be determined in contempt case:

- I. Jurisdiction of the Court who passed the direction;
- II. Merit of the matter in which the direction was passed;
- III. Merit of the direction;
- IV. Question as to whether the direction can be capable of being complied;
- V. Other all points which can be determined only by appellate Court.

17. In contempt appeal, the Appellate Court,

- I. Can verify the correctness of only those points to be determined by the Court passing order of punishment;
- II. Whether the order is appealable under Section 19 of the Contempt Courts Act;

- III. Correctness of extent and quantum of punishment;
- IV. Whether the punishment is commensurate to the alleged disobedience ;

18. It is well settled that, in contempt proceedings, the learned Single Judge has no authority to reassess or re-appreciate the findings that were arrived at while disposing of the writ petition. The scope of contempt appeal under Section 19 of the Contempt of Courts Act, 1971 is very limited. In deciding the contempt appeal, the appellate court can only verify whether the appellant has deliberately and willfully violated the order of the learned Single Judge. In the appeal, this Court has also jurisdiction to entertain whether the punishment passed in the contempt case is commensurate under the provisions of law and according to the facts and circumstances of the particular case.
19. After perusing the impugned order passed by the learned Single Judge in contempt case, it appears that the learned Single Judge has justifiably decided the issue placed before him. This is a fit case where the imposition of fine will not meet the ends of justice. Sufficient evidence was placed on record before the learned Single Judge that the appellant/5th respondent has willfully and deliberately violated the orders of this Court passed in the writ petition being W.P. No.21026 of 2017.

20. Under the above observation, we find no justification to interfere with the order passed by the learned Single Judge. Hence, the contempt appeal is hereby dismissed as devoid of merit.
21. The order of suspension passed by this Court during the pendency of the instant contempt appeal is hereby vacated.
22. The petitioner is directed to serve out the sentence as directed by the learned Single Judge.
23. Miscellaneous petitions, if any, pending in the contempt appeal shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE SUBHENDU SAMANTA

Dt. 17.03.2026
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