

Mrityunjoy Das & Anr vs Sayed Hasibur Rahaman & Ors on 16 March, 2001

Equivalent citations: AIR 2001 SUPREME COURT 1293, 2001 (3) SCC 739, 2005 AIR SCW 6009, 2001 AIR SCW 1162, 2006 (1) AIR JHAR R 192, (2005) 36 ALLINDCAS 35 (SC), 2005 (8) SLT 574, 2006 (1) SCC(CRI) 296, 2006 (1) BLJR 608, 2001 (2) UJ (SC) 1106, 2001 (4) SRJ 301, 2006 ALL MR(CRI) 281, (2006) 1 CHANDCRIC 117, 2006 (2) SCC (CRI) 296, 2001 UJ(SC) 2 1106, 2005 (13) SCC 766, 2005 (36) ALLINDCAS 35, (2005) 9 JT 574 (SC), (2006) 2 CAL HN 555, 2006 BLJR 1 608, (2006) 108 FACLR 1200, 2006 (1) SRJ 177, (2001) 4 ALLMR 255 (SC), 2001 (2) LRI 1217, 2001 (2) SCALE 499, 2001 CALCRILR 289, (2001) 3 JT 592 (SC), 2001 (3) JT 592, 2001 (4) ALL MR 255, (2006) 2 JCR 76 (PAT), (2006) 42 ALLINDCAS 216 (PAT), (2006) SC CR R 1392, 2006 CHANDLR(CIV&CRI) 698, (2005) 9 SCALE 371, (2001) 2 ALL WC 1239, (2006) 1 EASTCRIC 89, (2006) 2 JLJR 50, (2006) 33 OCR 631, (2006) 1 PAT LJR 476, (2006) 1 RECCRIR 139, (2006) 1 SCJ 324, (2006) 1 ALLCRIR 250, (2006) 1 CAL LJ 225, (2006) 1 ALLCRILR 443, (2005) 4 CRIMES 269, (2001) 1 UC 526, (2005) 4 CURCRIR 272, (2005) 7 SUPREME 742, (2001) 2 RECCRIR 260, (2001) 2 SUPREME 395, (2001) 2 SCALE 499, (2001) 2 CIVLJ 600, (2001) 2 ALLCRIR 1045, 2006 (1) ANDHLT(CRI) 225 SC, 2006 (54) ACC (SOC) 1 (GAU)

Bench: Umesh C. Banerjee, S.N. Phukan

CASE NO.:

Contempt Petition (civil) 202 of 2000

PETITIONER:

MRITYUNJOY DAS & ANR

Vs.

RESPONDENT:

SAYED HASIBUR RAHAMAN & ORS.

DATE OF JUDGMENT:

16/03/2001

BENCH:

Umesh C. Banerjee & S.N. Phukan

In the application (I.A.No.3) a further order was passed on 17th April, 2000 which reads as below:@@ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ We have heard learned senior counsel for the Petitioners, Mr. Shanti Bhushan and Learned Senior Counsel for respondent-State of West Bengal, Mr. Ray, Learned Senior Counsel for respondent-State of West Bengal is right when he says that some more time is required as 13,000 persons are listed and they have to ascertain about their existence on the spot. We grant time up to the end of July, 2000. I.A. will be placed in the second week of August, 2000. In the meantime, at the request of Learned Counsel for the Petitioners, Mr. Shanti Bhusan we grant additional interim relief in continuation of our earlier order dated 16.12.1999 to the effect that if in the meantime, any vesting orders have been passed in respect of the lands of members of Petitioner Sangha who were before the High Court in the matter out of which the present proceedings arise, then those vesting orders shall not be implemented until further orders."

Mr. Sanyal, the learned Senior Advocate appearing in support of the petition for Contempt contended that the high handedness of the executive authorities is apparent in the deliberate action of taking over possession of land from two of the members of the Samiti even after coming to know

of the orders of this Court and resultantly committing an act of gross contempt.

Admittedly, this Court passed an order on 17th April, 2000 as a continuation of the earlier order dated 16th December, 1999 to the effect that if in the meantime, any vesting order has been passed in respect of the land of members of petitioners Sangha who were before the High Court in the matter out of which the present proceeding arise, then those vesting orders shall not be implemented until further orders. The order dated 16th December, 2000 also categorically records the maintenance of status quo regarding possession on spot by both the State and Private Respondents. As regards however the Private Respondents, the order was directed to be made applicable to the cases of the members of the petitioners Sangha who were before the High Court in the Writ Petition out of which the present proceeding arose.

Needless to state that Land Reforms Legislation in States have been introduced with a view to proceed with the socialistic approach as enshrined in the Constitution. The amendments have been effected in the main provisions of the act, validity of which stands further scrutiny before this Court. We are however, not called upon to delve into these issues neither we intend to do the same. The noting aforesaid is just to introduce the subject for our consideration though in a separate jurisdiction being of extra- ordinary nature but as conferred by and under the statute.

Let us however, at this juncture consider the counter affidavit as filed by the alleged Contemnors and assess the situation as to whether there is any deliberate act on the part of the revenue officers of the State or an omission to note the true effect of the order which has resulted in such an action which is said to be contemptuous in nature. The alleged Contemnors No.2 and 3 being Sayed Kadar Hossain and Chitaranjan Chakraborti stated that as officers of the Government, they have tried to discharge their duties to the best of their ability, capacity and understanding. There was never any motive or intention to violate or disobey the orders of this Court. In paragraphs 4 and 5 alleged contemnors stated as below.

4. We respectfully submit that as understood by us that the number of the Petitioner Sangha who were before the High Court in the Writ Petition were understood by us as parties on the date on which the Writ Petition was filed. The petitioners themselves have admitted that they became members only in 1992-93, and the order of this Honble Court would not be applicable then as they were not members of the Sangha on the date of filing the Writ Petition. If the interpretation given by the Petitioners was sought to be accepted, then there could be no occasion for this Honble Court making the order for verification of members of the Sangha. We never proceeded with the matter to violate the orders of this Honble Court.

5. We also submit that in the proceedings, the Petitioners were given full opportunity of being heard and in fact the Petitioner appeared through Advocate and made submission and after considering the facts and circumstances of the case and also the material on record, the Revenue Officer being the competent Authority under the Act (Contemnor No.2) recorded the following finding:

It appears from certificate which was issued by that Sangha that Sl. No. of Life Membership of raiyat Mrityunjoy Das is 2698/93. It is clear that the raiyat obtained

We further submit that we have not tried to justify the conduct any way, by making the aforesaid statements and have stated these only to explain the circumstances and if any lack of understanding as aforesaid has resulted in violation of this order and consequently the Contempt of Court, I repent for the same and tender my unqualified apology before this Honble Court. I further submit that whatever I have done was in the course of my official work as a Government servant and I have no personal interest whether the process of Land Reforms continues or halts. On the face of this order of this Honble Court, or in that way any Order of any Court, which I am duty bound to obey. I again submit that if my interpretation of the order of this Honble Court was wrong that was because of my limitations to understand but there is nothing malafide in it and I cannot think of over-reaching or flouting the order of this Honble Court in any way or under any circumstances.

Contra however, is the submission of Mr. Sanyal and Mr. Ganguli for the petitioners with reference to the user of the words present proceeding by this Court which cannot as contended but mean that the order has been intended to apply to the applicants before this Court, in addition to the members who were members on the date of filing

of the Writ Petition and this by no stretch be restrictive at all. Since, otherwise the order would only be partial and a majority of the persons proceeding with this litigation as parties herein would be deprived of the same a situation which cannot possibly be conceived in the matters of an order of this Court since this Court confers benefit on to those who seek relief in a proceeding before this Court indeed an attractive submission.

Before however, proceeding with the matter any further, be it noted that exercise of powers under the Contempt of Courts Act shall have to be rather cautious and use of it rather sparingly after addressing itself to the true effect of the contemptuous conduct. The Court must otherwise come to a conclusion that the conduct complained of tantamounts to obstruction of justice which if allowed, would even permeate in our society (vide *Murray & Co. v. Ashok Kr. Newatia & Anr.*: 2000 (2) SCC 367) this is a special jurisdiction conferred on to the law courts to punish an offender for his contemptuous conduct or obstruction to the majesty of law. It is in this context that the observations of the this Court in *Murray's case* (supra) in which one of us (Banerjee, J.) was party needs to be noticed.

The purpose of contempt jurisdiction is to uphold the majesty and dignity of the Courts of law since the image of such a majesty in the minds of the people cannot be led to be distorted. The respect and authority commanded by Courts of Law are the greatest guarantee to an ordinary citizen and the entire democratic fabric of the society will crumble down if the respect for the judiciary is undermined. It is true that the judiciary will be judged by the people for what the judiciary does, but in the event of any indulgence which even can remotely be termed to affect the majesty of law, the society is bound to lose confidence and faith in the judiciary and the law courts thus, would forfeit the trust and confidence of the people in general.

The other aspect of the matter ought also to be noticed at this juncture viz., the burden and standard of proof. The common English phrase he who asserts must prove has its due application in the matter of proof of the allegations said to be constituting the act of contempt. As regards the standard of proof, be it noted that a proceeding under the extra-ordinary jurisdiction of the Court in terms of the provisions of the Contempt of Court Act is quasi criminal, and as such, the standard of proof required is that of a criminal proceeding and the breach shall have to be established beyond reasonable doubt. The observations of Lord Denning in *Re Bramblevale* (1969 3 All ER 1062) lend support to the aforesaid. Lord Denning in *Re Bramblevale* stated:

A contempt of court is an offence of a criminal character. A man may be sent to prison for it,. It must be satisfactorily proved. To use the time- honoured phrase, it must be proved beyond all reasonable doubt. It is not proved by showing that, when the man was asked about it, he told lies. There must be some further evidence to incriminate him. Once some evidence is given, then his lies can be thrown into the

scale against him. But there must be some other evidence. Where there are two equally consistent possibilities open to the Court, it is not right to hold that the offence is proved beyond reasonable doubt.

In this context, the observations of the Calcutta High Court in *Archana Guha v. Ranjit Guha Neogi* (1989 (II) CHN

252) in which one of us was a party (Banerjee, J.) seem to be rather apposite and we do lend credence to the same and thus record our concurrence therewith.

In *The Aligarh Municipal Board and Others v. Ekka Tonga Mazdoor Union and Others* (1970 (III) SCC 98), this Court in no uncertain term stated that in order to bring home a charge of contempt of court for disobeying orders of Courts, those who assert that the alleged contemnors had knowledge of the order must prove this fact beyond reasonable doubt. This Court went on to observe that in case of doubt, the benefit ought to go to the person charged.

In a similar vein in *V.G. Nigam and others v. Kedar Nath Gupta and another* (1992 (4) SCC 697), this Court stated that it would be rather hazardous to impose sentence for contempt on the authorities in exercise of contempt jurisdiction on mere probabilities.

Having discussed the law on the subject, let us thus at this juncture analyse as to whether in fact, the contempt alleged to have been committed by the alleged cotemnors, can said to have been established firmly without there being any element of doubt involved in the matter and that the Court would not be acting on mere probabilities having however, due regard to the nature of jurisdiction being quasi criminal conferred on to the law courts. Admittedly, this Court directed maintenance of status quo with the following words the members of the petitioner Sangha who were before the High Court in the writ petition out of which the present proceedings arise. And it is on this score the applicant contended categorically that the intent of the Court to include all the members presenting the Petition before this Court whereas for the Respondent Mr. Ray contended that the same is restricted to the members who filed the writ petition before the High Court which culminated in the initiation of proceeding before this Court. The Counter affidavit filed by the Respondents also record the same. The issue thus arises as to whether the order stands categorical to lend credence to the answers of the respondent or the same supports the contention as raised by the applicants herein Incidentally, since the appeal is pending in this Court for adjudication, and since the matter under consideration have no bearing on such adjudication so far as the merits of the dispute are concerned, we are not expressing any opinion in the matter neither we are required to express opinion thereon, excepting however, recording that probabilities of the situation may also warrant a finding, in favour of the interpretation of the applicant. The doubt persists and as such in any event the respondents being the alleged contemnors are entitled to have the benefit or advantage of such a doubt having regard to the nature of the proceeding as noticed herein before more fully.

In view of the observations as above, we are not also inclined to go into the question of apology. On the wake of@@ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJ the aforesaid, this Contempt Petition fails and is

