

Madhya Pradesh High Court

Rafik vs Shri S.P.Singh Saluja on 17 September, 2010

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Contempt Case No.1095/10

Rafik

S.P. Singh and another.

17.9.2010

Shri Pradeep Naveria, Counsel for the petitioner.

This contempt case is filed alleging non-compliance of order dated 31.8.2009 against the respondents.

By order

dated 31.8.2009 in W.P.6883/2009 a Division Bench of this Court directed thus :-

" The petitioner claims to be a permanent resident of Pathani Mohalla, tahsil and district Damoh and has filed this writ petition as Public Interest Litigation alleging that respondent No.6 has constructed a temporary construction at entrance gate of the T.B. Hospital at Damoh. The petitioner also alleged that respondent No.6 has encroached on Nazool land in Plot No.1278 and Plot No.1283 in Pathani Mohalla, Ward No.5 in Damoh. These are the matters which can be considered by the Chief Municipal Officer, Municipalities, Damoh.

We, accordingly, dispose of this petition with the directions that the petitioner will submit a representation before the Chief Municipal Officer, Damoh will pass necessary orders in accordance with law after affording reasonable opportunities to the respondent No.6 and get the temporary construction established by respondent No.6 in front of T.B. Hospital and at other places as mentioned above removed as early as possible preferably within a period of six months from the date of receipt of representation in case he finds that the temporary constructions are mere not legally permissible."

It appears that the petitioner thereafter approached to the Chief Municipal Officer, Municipal Council, Damoh by filing a representation and the Chief Municipal Officer, Damoh approached to the Collector and the Superintendent of Police for providing help for removing the alleged encroachment. The Civil Surgeon also wrote a letter Annexure C4-A to the Chief Municipal Officer, Damoh stating that there is encroachment at the gate No.3 of the District Hospital, Damoh and it was requested to remove the encroachment by

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Mohd. Rafik and his son Mohd. Nafees. It is submitted that inspite of this the Collector, Damoh has entertained an application filed by the Mohd. Rafik for grant of lease of the same encroached area.

As the matter is pending before the Collector, Damoh who has to decide the aforesaid matter in accordance with law in the revenue proceedings, we find it appropriate to dispose of this matter with the following directions:-

1. The petitioner shall appear before the Collector, Damoh in pending proceedings in an appeal bearing No.31/09-10 and to submit all his contentions before the Collector/Addl. Collector, Damoh.
2. On filing of such an application, the Addl. Collector, Damoh shall permit the petitioner to intervene in the matter and to submit his case before the Collector.
3. The petitioner is also permitted to seek intervention in the proceedings for grant of lease of the aforesaid encroached area, if still pending before the Collector, Damoh and in that circumstances, the Collector, Damoh shall permit the petitioner to intervene in those proceedings.
4. The Collector, Damoh after hearing the petitioner, shall decide the matter finally, expeditiously as far as possible within a period of 30 days from the date of communication of this order.
5. Liberty is granted to the petitioner that in case grievances are not redressed, he may file a fresh application for the redressal of the grievances invoking

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powers of this Court under Art.215 of the Constitution of India read with Sec.12 of the Contempt of Courts Act.

C.C.as per rules.

(Krishn Kumar Lahoti)
JUDGE

vj

(Smt. Vimla Jain)
JUDGE