

Dr Leena Vijaykumar vs V Ramesh Babu on 23 December, 2019

Equivalent citations: AIRONLINE 2019 KAR 2378

Bench: Ravi Malimath, Suraj Govindaraj

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

ON THE 23RD DAY OF DECEMBER, 2019

BEFORE

THE HON'BLE MR. JUSTICE RAVI MALIMATH

AND

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRL.CCC NO.4 OF 2018

BETWEEN:

DR. LEENA VIJAYKUMAR
WIFE OF MR. VIJAYAKUMAR KOUJALGI
AGED ABOUT 49 YEARS
NO.5, 27TH MAIN, 2ND CROSS
VGS LAYOUT EJIPURA
BENGALURU-560 047 ... COMPLAINANT

(BY SRI. M.J. ALVA, ADVOCATE)

AND:

V. RAMESH BABU
SON OF LATE C VEERAPPA
AGED ABOUT 45 YEARS
NO.175, 18TH CROSS
LAKKASANDRA
BENGALURU-560 030 ... ACCUSED

(BY SRI. LOHITASWA BANAKAR, ADVOCATE)

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THIS CRIMINAL CONTEMPT CASE IS FILED UNDER SECTION 15(1)(B) OF THE CONTEMPT OF COURTS ACT, 1971 PRAYING TO i) TAKE COGNIZANCE OF THE CRIMINAL CONTEMPT AGAINST THE ACCUSED ON THE BASIS OF THE INFORMATION DISCLOSED IN THE COMPLAINT (VIDE PARA 24 ABOVE) WHICH IS FILED WITH THE CONSENT IN WRITING OF THE LEARNED ADVOCATE GENERAL, STATE OF KARNATAKA, BENGALURU AT ANNEXURE-Q AND ETC.

THIS CRIMINAL CONTEMPT COMING ON FOR ARGUMENTS AND HAVING BEEN RESERVED FOR JUDGMENT ON 27.09.2019 THIS DAY, SURAJ GOVINDARAJ J., PRONOUNCED THE FOLLOWING:

ORDER

1. The present Contempt Petition has been filed contending that the accused has indulged in acts amounting to criminal contempt of this Court including the abuse of judicial process before the trial Court as also before this Court. The complainant has sought for the accused to be punished for contempt of court under section 12(1) of the Contempt of Courts Act, 1971.

2. The complainant states that:

2.1 The complainant is a medical practitioner who had entered into an agreement of sale with one Indu Kumari to purchase the property bearing No.37 (Old No.137) with PID No.62-18-37 situated at 8th Main, 14th Cross, Lakkasandra Layout Extension, Bengaluru - 560 030. Since the said Indu Kumari having not executed the sale deed, the complainant had filed a suit for specific performance in O.S.No.16494 of 2005.

On 27.05.2005 an order of injunction restraining Indu Kumari from alienating the schedule property had been passed.

2.2 The accused had purchased the schedule property on 16.03.2007 from Smt.Indu Kumari in gross violation of the order of temporary injunction for an amount of Rs.23,00,500/- and mortgaged the same to Bengaluru City Cooperative Bank Limited for Rs.24,25,000/- on 20.09.2007.

2.3 Immediately on coming to know of the same, the complainant had filed an application to implead the accused in the said suit. However, the accused had contended that he was not a necessary party and hence, the impleading application came to be rejected by the trial Court on 01.09.2008.

2.4 The accused failed to repay the mortgage debt to Bengaluru City Cooperative Bank Limited and the Bengaluru City Cooperative Bank Limited had initiated proceedings under Section 13 of the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by issuing a public notification dated 31.01.2009. The complainant had challenged the same by filing a Writ Petition in W.P.No.4907 of 2009 before this Court, which came to be disposed off on 03.03.2009 observing that the purchase by the accused was lis pendens. 2.5 The trial Court decreed the suit on merits on 29.01.2011 against which Regular First Appeal in RFA No.367 of 2011 was filed by Indu Kumari before the High Court of Karnataka which came to be dismissed on 18.10.2011 confirming the judgment and decree of the Trial Court. This Court in the said RFA had directed Complainant to make additional payment in a sum of Rs.10,00,000/- to Indu Kumari in order to clear the encumbrance created by Indu Kumari. 2.6 This amount was deposited by the complainant and execution proceedings were filed in Execution Petition No.25033 of 2012 wherein the complainant had also arrayed the accused as a judgment debtor.

2.7 The accused seeking to review the order dated 18.10.2011 passed in RFA No.368 of 2011 filed Review Petition in R.P.No.542 of 2011, which came to be dismissed by this Court on 17.08.2012. Subsequently, the trial Court proceeded with the execution and executed the sale deed in favour of the complainant on 17.09.2012. Against the said order passed in execution proceedings, the accused had filed a Civil Revision Petition before the High Court of Karnataka in CRP No.404 of 2012 which came to be dismissed on 22.09.2012. The accused challenged the dismissal of RFA No.367 of 2011 (filed by Indu Kumari) and R.P.No.542 of 2011 (filed by accused) through Special Leave Petition in S.L.P.(C) Nos.31887-88 of 2012 before the Hon'ble Supreme Court, which also came to be dismissed on 02.11.2015. The accused filed a Review Petition in R.P.(C) Nos.95-96 of 2016 before the Hon'ble Supreme Court seeking for review of the order of dismissal passed in SLP Nos.31887-88 of 2012. The said Review Petitions also came to be dismissed on 21.01.2016. The accused thereafter had filed a Curative Petition Nos.267-68 of 2016 before the Hon'ble Supreme Court, which was dismissed on 21.07.2016. 2.8 On such finality being achieved, the complainant pursued the Execution Petition and sought for possession of the schedule property. The accused filed a memo on 03.08.2016 stating that the possession of the schedule property is with the Bengaluru City Cooperative Bank Limited and thereby confirmed that he is not at all in possession of the same. The Bengaluru City Cooperative Bank Limited sought itself to be impleaded in the said proceedings. The said application came to be dismissed on 13.02.2017. 2.9 The accused thereafter filed an application under Order XXI Rule 29 of Code of Civil Procedure before the Executing Court for stay of further proceedings. In the meanwhile, the complainant had filed an application under Order XXI Rule 35(3) of Code of Civil Procedure to execute the delivery warrant with the assistance of the Police by breaking open the locks. The application filed under Order XXI Rule 29 came to be dismissed and the application filed under Order XXI Rule 35(3) came to be allowed by a common order dated 08.07.2017. In pursuance whereof, possession of the property was delivered to the complainant through the process of the Court on 12.07.2017.

2.10 Surprisingly, on 12.07.2017, one M/s.Excel Kidz Pre-Nursery School filed an application under Order XXI Rule 97 of Code of Civil Procedure in the said execution proceedings as an objector contending that the accused had executed a registered long term lease deed in its favour in respect of the schedule property on 05.06.2017 for a period of 30 years. The said application was also rejected by the trial Court and the execution petition was closed on 20.11.2017 by recording full satisfaction of the decree.

2.11 The accused thereafter commenced another round of litigation by filing O.S.No.610 of 2017 contending that he is in possession of the schedule property and sought for a declaration to declare that the judgment and decree passed in O.S.No.16494 of 2005 dated 29.01.2011 and the judgment of this Court in RFA No.367 of 2011 dated 18.10.2011 are not binding on him and sought for an injunctive relief against the complainant from interfering with his alleged possession despite the fact that the possession of the schedule property had been delivered to the complainant through the process of law in the execution proceedings. The above reliefs were sought for despite the fact that possession of the schedule property had been delivered to the complainant. In the said suit, accused had arrayed Indu Kumari, the complainant and Bengaluru City Cooperative Bank Limited as defendants and injunctive reliefs were sought for only against the complainant herein. 2.12 The complainant has also stated that the accused had got filed another collusive suit through M/s. Karnataka Dalitha Sangharsha Samithi on 22.07.2017 in O.S.No.5000 of 2017 before the trial Court against him seeking an injunctive relief in respect of the schedule property contending that the accused had entered into a lease agreement with the said Samithi on 28.12.2007 and the said lease was subsisting. The complainant contends that the said lease is predated and a created one since the lease deeds are dated 28.12.2007 and 20.12.2012. The complainant alleges that it was for the first time that these lease deeds had been brought to light in O.S.No.5000 of 2017 and until then, it was always contended that the accused was in possession of the schedule property. More so that the accused had filed a memo in the execution proceedings on 03.08.2016 contending that the Bank had taken possession. 2.13 The complainant states that the accused had voluntarily appeared before the trial Court in O.S.No.5000 of 2017 by advancing the suit on his own volition without any summons being served upon him and filed his written statement and objections. Thereafter, accused had not appeared. In the advancement application, the accused has contended that except on 21.07.2017, he has not interfered with the possession of the Karnataka Dalitha Sangharsha Samithi.

2.14 The accused has filed numerous litigations which are an abuse of the process of the Court which has resulted in the accused obstructing the due course of judicial proceedings and administration of justice and hence applied to the learned Advocate General for Karnataka seeking for permission to prosecute the accused for criminal contempt. The said application No.2 of 2018 filed under Section 15(1)(b) of Contempt of Courts Act, 1971 was considered by the Advocate General and he granted consent to the applicant/complainant herein to initiate contempt of court proceedings against the respondent/accused on 04.04.2018. Pursuant to which, the present complaint was filed on 06.04.2018.

3. Summons was served on the accused. He entered appearance through an advocate on 29.05.2018 and filed a statement of objections/counter-affidavit on behalf of the accused on 14.06.2018. In the said objections, the accused has contended that the contempt petition is not maintainable and liable to be dismissed. He has further contended:

3.1 That he was not a party to the proceedings in O.S.No.16494 of 2005 and in RFA No.367 of 2011 and therefore there was no order against him and hence there is no question of him having willfully violated any orders of the Court.

3.2 That he is a bonafide purchaser for value and that his vendor had not disclosed the pendency of the suit or any agreements with anybody including the complainant.

3.3 That the accused had validly purchased the schedule property under the registered sale deed dated 16.03.2007 from his vendor for a valuable consideration of Rs.23,00,500/- by virtue of which, he was put in possession. The revenue documents were transferred in his name and his possession was taken away when a delivery warrant was issued in the execution proceedings.

The accused has filed a comprehensive suit for declaration in O.S.No.610 of 2017 which is pending adjudication.

3.4 That the complainant is in the habit of filing false cases against the accused. One such case was Crime No.153 of 2017 for the offences punishable under Sections 448, 427, 34 of IPC in which the Audigodi Police Station after enquiry has filed a 'B' report.

3.5 The accused has contended that the complainant had not narrated the true and correct facts and therefore seeks to place the true facts as per him in the counter affidavit. He contends as regards the agreement of sale entered into between Indu Kumari and complainant, that the total consideration of Rs.13,00,000/- of which Rs.3,00,000/- was paid at the time of agreement and balance Rs.10,00,000/- was to be paid at the time of registration of the sale deed. In the event Indu Kumari failed to execute the sale deed, she would be required to pay back the earnest money along with Rs.50,000/- as liquidated damages. He has spoken of the witnesses to the agreement to sell. He also contends that the agreement to sell is unregistered and insufficiently stamped and therefore not admissible in evidence. That there were some disputes as with KSFC and the amount involved and further that the key details are absent in the pleadings filed in O.S.No.16494 of 2005.

3.6 The accused admits that an application for impleadment of the accused had been filed in O.S.No.16494 of 2005 which was contested by him and thereafter the said application for impleading came to be dismissed on 01.09.2008. The accused has confirmed his knowledge of the judgment dated 07.04.2010 as also of Indu Kumari having preferred an appeal in RFA No.959 of 2010. He has thereafter made submissions about the proceedings, evidence having been led and he further states of contradiction in the evidence. He then avers that the appeal was dismissed on 18.10.2011 but finds fault with the judgment of this Court and has made allegations in that regard.

3.7 The accused admits filing of Special Leave Petition, Review Petition as also the Curative Petition. He further admits of having filed a suit in O.S.No.610 of 2017 as also the possession of the schedule property having been taken over under due process of law in the execution proceedings.

3.8 The accused despite accepting the above facts contends that the judgment of the trial Court and dismissal order of this Court is not binding on him since he was not a party to it and that the judgment passed is one in personam as against Indu Kumari and cannot be applied to him. He further contends that he has rightly filed O.S.No.610 of 2017. The accused denies the allegations made by the complainant in respect of O.S.No.5000 of 2017 by terming the same as imaginary.

4. Taking notice of the averments made in the counter affidavit/statement of objections, the complainant has filed counter objections contending that:

4.1 The accused has admitted all the proceedings and further on account of the impleading application having been filed, the accused had an opportunity to defend the suit and he cannot contend that he was not a necessary party. Hence, the accused cannot claim that he was not a party to the proceedings.

4.2 The accused was party to the execution proceedings and accused had challenged the order passed in Civil Revision Petition in CRP No.404 of 2012. He had also challenged the orders before the Hon'ble Supreme Court. Hence he cannot claim that he was not a party to the proceedings in O.S.No.16494 of 2005.

4.3 As regards the claim of the accused that he was in possession until the execution of the delivery warrant on 12.07.2017, the complainant states that this statement is contrary to the memo dated 03.08.2016 filed by the accused in the execution proceedings.

4.4 The complainant further contends that once the accused has accepted that the dispute has attained finality before the Hon'ble Supreme Court, there was no question of accused filing a fresh suit in O.S.No.610 of 2017.

4.5 The complainant has further stated that the accused had filed another suit in O.S.No.5100 of 2017 against Sri.Natashekar in respect of the very same schedule property, seeking for an injunction against Natashekar from interfering with the alleged possession of the accused. The suit in O.S.No.5100 of 2017 was filed on 27.07.2017. The complainant complains that in the said suit, the earlier proceedings and details thereof have been suppressed by the accused. It is only contended that Natashekar being a total stranger was interfering with the possession of the accused. Further contempt has been committed by the accused.

5. Subsequent to the filing of the affidavit and counter objections, the accused sought for time in the above proceedings on the ground that the complainant and accused are likely to compromise the dispute.

6. This Court on 28.06.2018 taking note of above submission had however observed that "this is a case of criminal contempt and not a civil one. The issue that would have to be considered by this court is whether the accused can be absorbed (SIC) (absolved) from his criminal liability inter alia on the ground that the complainant and the accused have entered into a compromise". Counsel for the accused sought time to study the issue. Hence, the matter was adjourned. Subsequently, the accused did not appear and thereafter once again on 26.09.2018, it was submitted that the parties are likely to settle the matter. However, no settlement was arrived at and since the matter was being prolonged, on 02.07.2018, this Court after hearing the parties was of the opinion that the charges are to be framed. This Court, however, left it to the parties to explore the possibility of settlement.

Counsel for the accused filed a memo for retirement and a new counsel appeared, thus further delaying the matter. In spite of being observed that charges are to be framed, there was no settlement arrived at however, the counsels had submitted that the matter could be referred to mediation. Hence, by order dated 09.01.2019, the matter was referred to mediation, which did not yield any positive result.

7. Thus this Court framed charges on 22.07.2019, which reads as under:-

"That you accused had purchased the suit schedule property in violation of the temporary injunction granted by the trial Court in favour of the complainant, who is the plaintiff in O.S.No.16494 of 2005 before the City Civil Court, Bengaluru, and the said suit came to be decreed on 29.01.2011.

Being aggrieved by the said decree, your vendor has preferred Regular First Appeal No.367 of 2011 before this Court and the same was dismissed vide order dated 18.10.2011. Being aggrieved by the dismissal of Regular First Appeal, that you accused had filed S.L.P.(C) Nos.31887-31888 of 2012 before the Hon'ble Apex Court, which also came to be dismissed vide order dated 02.11.2015. As against the said order of dismissal, you filed R.P.(C) Nos.95 to 96 of 2012 before the Hon'ble Apex Court and the same came to be dismissed vide order dated 21.01.2016. Thereafter, you accused filed Curative Petition (C) Nos.267-268 of 2016 before the Hon'ble Apex Court and the said petitions came to be dismissed on 21.07.2016. That you accused have set up M/s. Karnataka Dalitha Sangharsha Samiti for filing suit in O.S.No.5000 of 2017 before the City Civil Court, Bengaluru.

In spite of that, you accused have filed the suit in O.S.No.610 of 2017 before the City Civil Court, Bengaluru, seeking declaration that the judgment dated 18.10.2011 passed by this Court in Regular First Appeal No.367 of 2011 is not binding on you. That, you accused have set up several persons in Execution Petition No.25033 of 2012 causing obstruction to the proceedings and also suffered an order in R.P.No.542 of 2011 and CRP No.404 of 2012 and thereby, committed an offence which amounts to contempt within the meaning of Section 2(c) of the Contempt of Courts Act, 1971, punishable under Sections 11 and 12 of the Act, within the cognizance of this Court.

And we hereby direct that you be tried by this Court on the said charge."

8. Plea of the accused was recorded. The accused pleaded not guilty and claimed to be tried. Hence the matter was proceeded with.

9. The complainant examined herself as CW-1 and got marked nine documents viz., Exhibits P1 to P10. The accused examined himself as DW-1 and did not mark any documents.

10. In her deposition, CW-1 has stated as regards her filing O.S.No.16494 of 2005 before the City Civil Court, Bangalore against Smt.Indu Kumari for specific performance and the same having been

decreed in her favour. CW-1 has further stated that during the pendency of the suit, even though there was a temporary injunction against the defendant, the defendant had sold the suit schedule property to the accused herein. Hence, CW-1 had filed an application seeking to implead the accused in the suit, which came to be rejected. CW-1 has further deposed that the defendant had filed RFA No.367 of 2011 before this Court which was dismissed on 18.10.2011 observing that the accused should be impleaded in the execution proceedings. CW-1 has also stated that the accused had filed a Review Petition in R.P. No.542 of 2011 seeking for review of the order dated 18.10.2011 passed in RFA No.367 of 2011 which was dismissed on 17.08.2012. CW-1 has also further stated as regards the accused having filed Special Leave Petition Nos.31887-31888 of 2012 before the Hon'ble Supreme Court and its dismissal on 02.11.2015. CW-1 has deposed that a Review Petition was filed as regards thereto, which was also dismissed on 21.01.2016. Subsequently, Curative Petition Nos.267-268 of 2016, which were filed, have also been dismissed on 21.07.2016. CW-1 has further deposed of her having filed an Execution Petition No.25033 of 2012 seeking for execution of the judgment, the Executing Court had passed an order in her favour, where the accused had filed a memo dated 03.08.2016 to the effect that he is not in possession of the suit schedule property but it was the Bengaluru City Co-operative Bank Limited who was in possession. A certified copy of the said memo was marked as Ex.P1. CW-1 has also stated about the accused having filed O.S.No.610 of 2017 seeking for a declaration that the judgment and decree dated 18.10.2011 passed in RFA No.367 of 2011 is not binding on him. A certified copy of the plaint in O.S.No.610 of 2017 was marked as Ex.P2. CW-1 has further deposed that the accused had entered into a lease agreement with M/s.Excel Kids Pre- Nursery School with regard to the suit schedule property for a period of 30 years. A certified copy of the said lease deed was marked as Ex.P3. CW-1 has stated that M/s. Karnataka Dalit Sangharsha Samithi had filed a suit in O.S.No.5000 of 2017 against the accused before the City Civil Court, Bangalore with respect to the very same suit schedule property. A certified copy of the plaint was marked as Ex.P4. A certified copy of the list of documents filed in O.S.No.5000 of 2017 was marked as Ex.P5. CW-1 states that in the said suit the accused advanced the case and filed an affidavit along with advancement application stating that the plaintiff namely the Karnataka Dalit Sangharsha Samiti was in possession of the suit schedule property. A certified copy of the application and affidavit were marked as Ex.P6 and Ex.P7 respectively and certified copy of the order sheet was marked as Ex.P8. CW-1 states that the accused had also challenged the order passed by the Executing Court by filing a Civil Revision Petition in CRP No.404 of 2012, which came to be dismissed. The complainant also produced the certified copy of the order sheet in Execution Petition No.25033 of 2012, which was marked as Ex.P9. Ex.P10.

11. CW-1 was cross-examined by Sri. Lohithaswa Banakar, learned counsel for the accused. During the course of cross-examination, CW-1 admitted that the agreement executed by Smt. Indu Kumari in favour of the complainant is dated 12.04.2004 and that it is an unregistered document. CW-1 volunteers that an application was filed to implead the accused in the suit which was objected to by the accused, hence the application was dismissed, that the accused was not one of the defendants in the suit filed by her. CW-1 admits that she has not challenged the order of dismissal of the impleading application to implead the accused. CW-1 admits that Smt. Indu Kumari had executed the registered sale deed in favour of the accused on 16.03.2007. Hence, Smt. Indu Kumari had suffered an adverse order on an application filed by CW-1 under Order XXXIX Rule 2A of CPC, Smt. Indu Kumari was sentenced to civil imprisonment for three months, which Smt. Indu Kumari

underwent. CW-1 admits that she has not challenged the sale deed dated 16.03.2007. CW-1 accepted the suggestion that the accused had borrowed a loan on the suit schedule property. CW-1 admits that she was aware that the accused had filed O.S.No.610 of 2007. CW-1 states that the accused had set up several persons as obstructors in Execution Petition No.25033 of 2012. CW-1 states that she is not aware as to whether the suit filed by the accused in O.S.No.610 of 2007 had been filed to protect the civil rights or otherwise. CW-1 volunteers and states that the accused was impleaded in the execution proceedings. CW-1 took possession of the suit schedule property with police assistance in July 2017. CW-1 further states that inspite of taking possession, the accused has put his own lock on the suit schedule property. Hence, CW-1 gave a police complaint. CW-1 has not produced the said complaint. CW-1 states that she is in possession of the suit schedule property consequent to court orders.

12. CW-1 was re-examined with permission. In the re- examination, CW-1 has produced the certified copy of the sale deed dated 17.09.2012 executed through the process of court in her favour wherein the accused was also a party as a vendor. The same was marked as Ex.P10.

13. Subsequent to the examination-in-chief and cross- examination of CW-1, statement of the accused under Section 313 of the Code of Criminal Procedure was recorded on 28.08.2019. He also filed further statement under Section 313 by way of an affidavit on 19.09.2019.

14. The accused has led evidence for himself and he was examined as DW-1 on 19.09.2019. The accused in his examination-in-chief has stated that he had purchased the suit schedule property on 16.03.2007 from Smt. Indu Kumari for a sum of Rs.24,00,000/-, his vendor had not informed him about any pending cases or interim order. DW-1 admits that the trial court having issued notice to him with regard to his impleadment in the suit, he had filed a reply thereto opposing the same and the application having been dismissed by the trial Court. DW-1 admits about RFA No.367 of 2011 being filed by his vendor and its dismissal on 18.10.2011. DW-1 further states about he being aware of the direction issued in the said RFA directing him to execute a sale deed in favour of the complainant. DW-1 has further stated of he having filed R.P.No.542 of 2011 seeking to review the order passed in the aforesaid RFA and the same having been dismissed. DW-1 has also admitted of his filing Special Leave Petition Nos.31887- 31888 of 2012, Review Petition Nos.95-96 of 2016, Curative Petition Nos.267-268 of 2016, and all of them were dismissed. DW-1 has further stated about him filing of a civil suit in O.S.No.610 of 2017 for declaration of his rights and of the judgment and decree dated 18.10.2011 not being binding on him. DW-1 has further stated about having availed a loan on the suit schedule property on 20.09.2007 from Bangalore City Co- operative Bank. DW-1 states that he had initiated all the above proceedings to save his property and not to harass the complainant. DW-1 has again stated that since he was not a party to the suit, orders are not binding on him.

15. DW-1 was cross-examined by Sri. M.J.Alva, learned counsel for the complainant. During the course of cross- examination, DW-1 admits that he was a party to the sale deed executed by the court in favour of the complainant as also that he is one of the parties in the execution proceedings. DW-1 volunteers to state that he is one of the objectors. DW-1 states that he does not remember as to whether he had filed a memo before the Executing Court to the effect that he was not in possession

of the suit schedule property, he however admits that he has filed Ex.P1 memo (dated 03.01.2016) before the Executing Court. DW-1 states that he is not aware as to whether he had stated that he was in possession of the suit schedule property in the suit filed by him in O.S.No.610 of 2017. DW-1 states that he would stand by the averments made by him in the suit filed by him vide Ex.P2. DW-1 admits that he has executed a lease deed for a period of 30 years in favour of M/s.Excel Kids Pre-nursery School in terms of Ex.P3. DW-1 also admits that he has executed a lease agreement in favour of Karnataka Dalit Sangharsha Samithi vide Ex.P5 and of the said Samithi having filed a suit in O.S.No.5000 of 2007 against him for an injunction. DW-1 admits of filing of an affidavit in the said suit to the effect that the plaintiff-Samithi is in possession of the property since 2007 in terms of Ex.P7. DW-1 denies the suggestion that his actions are intended to harass the complainant. DW-1 also denies the suggestion that he has deliberately initiated all the proceedings against the complainant.

16. The evidence on behalf of the complainant and the accused was closed. The matter was posted for arguments. Sri. M.J.Alva, learned counsel submitted his arguments on behalf of the complainant. Sri. Lohithaswa Banakar, counsel submitted his arguments on behalf of the accused on 20.07.2019.

17. Sri. M.J.Alva, learned counsel for the complainant reiterated the contents of the Contempt Petition and the examination in chief of the Complainant. The same is not reproduced for the sake of brevity.

18. Sri. M.J.Alva, learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of ADVOCATE GENERAL, STATE OF BIHAR VS. M/S.MADHYA PRADESH KHAIR INDUSTRIES AND ANOTHER reported in (1980) 3 SCC 311, wherein it is held at Paras 7, 9 and 10 as follows:

"7. Section 2(c) of the Contempt of Courts Act defines criminal contempt as follows:

"(c) 'Criminal Contempt' means the publication (whether by words, spoken or written, or any signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner".

While we are conscious that every abuse of the process of the court may not necessarily amount to contempt of court, abuse of the process of the court calculated to hamper the due course of a judicial

proceeding or the orderly administration of justice, we must say, is a contempt of court. It may be that certain minor abuses of the process of the court may be suitably dealt with as between the parties, by striking out pleadings under the provisions of Order 6, Rule 16 or in some other manner. But, on the other hand, it may be necessary to punish as a contempt, a course of conduct which abuses and makes a mockery of the judicial process and which thus extends its pernicious influence beyond the parties to the action and effects the interest of the public in the administration of justice. The public have an interest, an abiding and a real interest, and a vital stake in the effective and orderly administration of justice, because, unless justice is so administered, there is the peril of all rights and liberties perishing. The court has the duty of protecting the interest of the public in the due administration of justice and, so, it is entrusted with the power to commit for contempt of court, not in order to protect the dignity of the court against insult or injury as the expression "Contempt of Court" may seem to suggest, but, to protect and to vindicate the right of the public that the administration of justice shall not be prevented, prejudiced, obstructed or interfered with. "It is a mode of vindicating the majesty of law, in its active manifestation against obstruction and outrage". "The law should not be seen to sit by limply, while those who defy it go free, and those who seek its protection lose hope".

8. xxxxx

9. In the present case, the respondents began 'the game' by filing an application under Article 226 of the Constitution in the Calcutta High Court, whereas in the normal course one would expect such an application to be filed in the Patna High Court within whose jurisdiction the subject matter of the dispute was situate. For some mysterious reason which nobody has been able to explain to us, the writ application was filed in the Calcutta High Court. A justifiable prima facie inference from this circumstance may be that the application was not bona fide but intended to harass and oppress the opposite parties. We do not want to say anything more about this aspect of the case as we are told that this is a failing of the respondents which they shared with several others. Perhaps, as we had occasion to remark during the course of the hearing, some parties are unable to reconcile themselves to the fact that the Calcutta High Court has long since ceased to have jurisdiction over the area comprising the State of Bihar which it had several decades ago.

10. The 'game' proceeded further.

Application after application was filed before the learned Single Judge, everyone of them designed to circumvent, defeat or nullify the effect of the orders of the Division Benches of the Calcutta High Court and the Patna High Court. The order of the Division Bench of the Calcutta High Court directing the respondents to furnish security in a sum of Rs.1,55,000 was never complied with. The order of the Division Bench of the Patna High Court directing the respondents to furnish security of immovable property in a sum of Rs.

75,000 and to deposit cash or furnish bank guarantee in a sum of Rs.50,000 was also never complied with. Instead, an order was obtained from the Single Judge of the Calcutta High Court restraining the State of Bihar from continuing the money-suit in the Court of the Subordinate Judge, Palamau. When this order was set aside by the Division Bench, an attempt was made to circumvent

all earlier orders by obtaining an order from the Single Judge that they may be allowed to deposit Rs.60,000 in cash and permitted to remove the stock from the forest coupes. When the State of Bihar moved the learned Subordinate Judge, Palamau for a direction to auction the attached stock, the respondents moved an application on December 14, 1972, and obtained an order from the Single Judge of the Calcutta High Court staying the proceedings in the money suit in the Court of the Subordinate Judge, Palamau. In considering the question whether the filing of the application dated December 14, 1972, amounts to a contempt of court, we must take into account the whole course of the continuing contumacious conduct of the respondents from the beginning of the "game". Clearly, not a single application made to the Single Judge was bona fide. Every application was a daring 'raid' on the Court and each was an abuse of the process of the Court. The application dated December 14, 1972 praying that the proceedings in the money suit in the Court of the Subordinate Judge should be stayed was made despite the fact that earlier, on January 10, 1972, the Division Bench of the Calcutta High Court had expressly permitted the proceedings in the money suit to go on. The application of the respondents clearly showed that they were intent upon obstructing the due course of the proceedings in the money suit in the Court of the Subordinate Judge, Palamau and to obstruct the administration of justice by abusing the process of the Court."

18.1 He further relies on the judgment of the Hon'ble Supreme Court in the case of CHANDRA SHASHI VS. ANIL KUMAR VERMA reported in (1995) 1 SCC 421 wherein it is held at Paras 1, 2, 8 and 9 as under:-

"1.The stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned.

2.Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.

3. xxxxx

4. xxxxx

5. xxxxx

6. xxxxx

7. xxxxx

8. To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail. People would have faith in courts when they would find that 'Satyameva Jayate' (truth alone triumphs) is an achievable aim there; or (it is virtue which ends in victory) is not only inscribed in emblem but really happens in the portals of courts.

9. The aforesaid thoughts receive due support from the definition of criminal contempt as given in Section 2(c) of the Act, according to which an act would amount be so if, inter alia, the same interferes or tends to interfere, or obstructs or tends to obstruct the administration of justice. The word 'interfere', means in the context of the subject, any action which checks or hampers the functioning or hinders or tends to prevent the performance of duty, as stated at p. 255 of Words and Phrases (Permanent Edn.), Vol. 22. As per what has been stated in the aforesaid work at p. 147 of Vol. 29 obstruction of justice is to interpose obstacles or impediments, or to hinder, impede or in any manner interrupt or prevent the administration of justice. Now, if recourse to falsehood is taken with oblique motive, the same would definitely hinder, hamper or impede even flow of justice and would prevent the courts from performing their legal duties as they are supposed to do."

18.2 He further relies on the judgment of the Hon'ble Supreme Court in the case of DHANANJAYA SHARMA VS. STATE OF HARYANA AND OTHERS reported in AIR 1995 SC 1795 wherein it is held at Para 40 as under:

"40. Section 2(c) of the Contempt of Courts Act 1971 (for short the Act) defines criminal contempt as "the publication (whether by words, spoken or written or by signs or visible representation or otherwise) of any matter or the doing of any other act whatsoever to (1) scandalised or tend to scandalise or lower or tend to lower the authority of any Court; (2) prejudice or interfere or tend to interfere with the due course of judicial proceedings or (3) Interfere or tend to interfere with, or obstruct or tend to obstruct the administration of justice in any other manner. Thus, any conduct which has the tendency to interfere with the administration of justice or the due course of judicial proceedings amounts to the commission of criminal contempt.

The swearing of false affidavits in judicial proceedings not only has the tendency of causing obstruction in the due course of judicial proceedings but has also the tendency to impede, obstruct and interfere with the administration of justice. The filing of false affidavits in judicial proceedings in any court of law exposes the intention of the concerned party in perverting the course of justice. The due process of law cannot be permitted to be slighted nor the majesty of law be made a mockery by such acts or conduct on the part of the parties to the litigation or even while appearing as witnesses. Anyone who makes an attempt to impede or undermine or obstruct the free flow of the unsoiled stream of justice by resorting to the filing of false evidence commits criminal contempt of

the court and renders himself liable to be dealt with in accordance with the Act. Filing of false affidavits or making false statement on oath in Courts aims at striking a blow at the Rule of Law and no court can ignore such conduct which has the tendency to shake public confidence in the judicial institutions because the very structure of an ordered life is put at stake. It would be a great public disaster if the fountain of justice is allowed to be poisoned by any one resorting to filing of false affidavits or giving of false statements and fabricating false evidence in a court of law. The stream of justice has to be kept clear and pure and anyone soiling its purity must be dealt with sternly so that the message percolates loud and clear that no one can be permitted to undermine the dignity of the Court and interfere with the due course of judicial proceedings or the administration of justice. In *Chandra Shashi v. Anil Kumar Verma*, [1995] 1 SCC 421: (1994 AIR SCW 4994), the respondents produced a false and fabricated certificate to defeat the claim of the respondent for transfer of a case. This action was found to be an act amounting to interference with the administration of justice. Brother Hansaria, J. speaking for the Bench observed.

"the stream of administration of justice has to remain unpolluted so that purity of Court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of Court's environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned. Anyone who takes recourse to fraud deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice."

18.3 He further relies on the judgment of the Hon'ble Supreme Court in the case of *VIJAYA BANK EMPLOYEES HOUSING CO-OPERATIVE SOCIETY LTD. VS. MUNEERAPPA* reported in ILR 1990 KAR 4179 wherein it is held at Paras 7 and 8 as follows:

"7. As regards the second submission of Mr. Subbaiah that the Advocate General's permission is required to initiate criminal contempt, we are not persuaded to accept the same because Section 15 of the Contempt of Courts Act enables this Court to take action on its own motion (*suo motu*).

8. The filing of the suit cannot be got away with on the ground that there is no disobedience of any order. It is not mere disobedience, but as pointed out by the Supreme Court in the above ruling, even abuse of process of the Court would amount to contempt of Court within the meaning of Section 2(c) of the Contempt of Courts Act. Therefore, where the action of the accused is calculated to obstruct the due courses of a judicial proceeding and the administration of justice, it would amount to criminal contempt of Court. We do not have even a formal apology of the accused in the statement of objections.

Therefore, we hold that the accused is guilty of contempt of Court".

19. Sri. M.J.Alva learned counsel for the complainant contends that apart from suits and proceedings having been filed to harass the complainant, the accused has deliberately with malafide motive and intention suppressed the material facts from various courts in which proceedings having been filed by the accused from time to time. Further, he contends that the accused has got collusive proceedings filed against himself so as to obtain orders in those proceedings which could be used by the accused for his benefit in other proceedings or as against the complainant. The use and abuse of the process of the court in order to gain an undue advantage is nothing but fraud on the court. In this regard, he relied on the judgment of the Hon'ble Supreme Court in the case of MEGHMALA AND OTHERS VS. G.NARASIMHA REDDY AND OTHERS reported in 2010 (7) SCJ 161 wherein at Paras 20, 24, 25 and 26, it is held as under:

"20. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent Authority, such order cannot be sustained in the eyes of law. "Fraud avoids all judicial acts ecclesiastical or temporal." (Vide S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. & Ors. AIR 1994 SC 853). In Lazarus Estate Ltd. Vs. Besalay 1956 All. E.R. 349), the Court observed without equivocation that "no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything."

21. XXXXX

22. XXXXX

23. XXXXX

24. The ratio laid down by this Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit to the persons who played fraud or made misrepresentation and in such circumstances the Court should not perpetuate the fraud. (See District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram & Anr. Vs. M. Tripura Sundari Devi (1990) 3 SCC 655; Union of India & Ors. Vs. M. Bhaskaran (1995) Suppl. 4 SCC 100; Vice Chairman, Kendriya Vidyalaya Sangathan & Anr. Vs. Girdharilal Yadav (2004) 6 SCC 325; State of Maharashtra v. Ravi Prakash Babulalsing Parmar 2007 (8) SCJ 90 = (2007) 1 SCC 80; Himadri Chemicals Industries Ltd. Vs. Coal Tar Refining Company 2008 (1) SCJ 213 = AIR 2007 SC 2798; and Mohammed Ibrahim & Ors. Vs. State of Bihar & Anr. 2010 (2) SCJ 207 = (2009) 8 SCC 751).

25. Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression "fraud" involves two elements, deceit and injury to the person deceived. It is a cheating intended to get an advantage. (Vide Dr. Vimla Vs. Delhi Administration AIR 1963 SC 1572; Indian Bank Vs. Satyam Fibres (India) Pvt. Ltd. (1996) 5 SCC 550; State of Andhra Pradesh Vs. T. Suryachandra Rao 2005 (5) SCJ 648 = AIR 2005 SC 3110;

K.D. Sharma Vs. Steel Authority of India Ltd. & Ors. 2008 (6) SCJ 705 = (2008) 12 SCC 481; and Regional Manager, Central Bank of India Vs. Madhulika Guruprasad Dahir & Ors. 2008 (6) SCJ 62 = (2008) 13 SCC 170).

26. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Suppression of a material document would also amount to a fraud on the court. (Vide S.P. Changalvaraya Naidu (supra);

Gowrishankar & Anr. Vs. Joshi Amba Shankar Family Trust & Ors. AIR 1996 SC 2202; Ram Chandra Singh Vs. Savitri Devi & Ors. (2003) 8 SCC 319; Roshan Deen Vs. Preeti Lal AIR 2002 SC 33; Ram Preeti Yadav Vs. U.P. Board of High School & Intermediate Education AIR 2003 SC 4628; and Ashok Leyland Ltd. Vs. State of Tamil Nadu & Anr. AIR 2004 SC 2836).

19.1 Mr. Alva, learned counsel submits that in view of brazen contempt of court committed by the accused, the accused has to be dealt with a heavy hand and the strictest punishment permissible under law needs to be imposed on the accused. In this regard, he relies on the judgment of this Court in the case of ADVOCATE GENERAL, HIGH COURT OF KARNATAKA, BANGALORE VS. CHIDAMBARA AND ANOTHER reported in ILR 2003 KAR 3631, wherein at Paras 41, it is held as under:-

"41. Before closing, on enquiry, as we have come to the conclusion and firm opinion that apart from committing contempt of Court the accused-1 has also committed an offence of perjury punishable under Section 193 IPC committed in relation to proceedings of this Court. We direct the Registrar (Judicial) under Section 340 (3)

(b) Cr.P.C to file a complaint before the jurisdictional Magistrate in this regard."

20. Relying on the above facts and decisions, Mr. Alva submits that the accused should be held to be guilty of gross contempt of court and punished accordingly.

21. Mr. Lohitaswa Banakar, learned counsel appearing for the accused has contended that since accused was not a party to the suit in O.S.No.16494 of 2005, the orders passed therein are not applicable to him. All the proceedings which had been filed by the accused is in order to protect his civil rights and property rights and were under the advice of his advocates. The filing of these proceedings cannot in any manner amount to contempt of court since a citizen of this country is free to agitate his rights in a court of law. He further submits that the purchase of the property as also the prosecution of the proceedings by the accused was not improper. There is no order preventing him from doing so, more so, when he is not a party to the suit. On these grounds and submissions, he submits that the contempt proceedings against the accused needs to be dropped.

22. In the above background, the following points arise for consideration:

1. Whether the accused has committed an offence which amounts to contempt within the meaning of Section 2(c) of the Contempt of Courts Act, 1971?
2. What order?

Point No.1:

23. The accused has contended that since he was not a party to the suit in O.S.No.16494 of 2005, the orders passed therein are not applicable to him. This is a hyper-technical argument sought to be advanced. Be that as it may, even this argument would not enure to the benefit of the accused. Admittedly, an application to implead the accused in the suit had been filed. The accused was put to notice of the suit and the relief sought for therein, despite which the accused chose to contest the impleading application on which basis the application came to be dismissed. The accused having elected to stand outside the suit with full knowledge of the consequences thereof cannot now be heard to say that since he was not a party, the orders and judgments passed therein are not binding on him. The accused having taken the risk of not defending the suit when the complainant had provided him with an opportunity to do so is bound by the orders passed therein.

24. Though the complainant has alleged that the filing of the proceedings by the accused challenging the judgment in O.S.No.16494 of 2005 obstructs the course of justice, we cannot agree to such a contention in entirety. The accused was well within his right to file the Review Petition No.542 of 2011, CRP No.404 of 2012, SLP Nos.31887-88 of 2012, R.P.(C) Nos.95-96 of 2016, Curative Petition Nos.267-68 of 2016.

25. All the above proceedings filed by the accused were in the exercise of the legal rights vested in the accused and exercise of such rights by initiating necessary judicial proceedings by the accused cannot be faulted with.

26. The complainant has made an incorrect statement in Para 9 of the complaint stating that the accused had filed O.S.No.610 of 2017 stating that he is in possession of the schedule property despite the fact that possession of the schedule property had been delivered to the complainant through due process of law in the execution proceedings. By this statement, the complainant seeks to contend as if the accused had misled the Court.

27. On a perusal of the file and documents relating thereto, we find that O.S.No.610 of 2017 was filed on 23.01.2017 whereas the possession of the schedule property was delivered to the complainant through the process of the Court on 12.07.2017 as admitted by the complainant in Para 7 of the contempt application. The complainant should have been on guard in making these statements in such serious proceedings as these contempt proceedings.

28. As stated earlier, the proceedings insofar as they relate to the challenging of the judgments passed in O.S.No.16494 of 2005 confirmed in RFA No.367 of 2011 being justified, the other

proceedings initiated by the accused are not justified and the reason provided that it was under the advice of his advocates is not an excuse.

29. The accused apparently has got filed an application under Order XXI Rule 97 of the Code of Civil Procedure by M/s. Excel Kidz, Pre-Nursery School contending that the accused had executed a registered long term lease deed in its favour in respect of schedule property on 05.06.2017 for a period of 30 years. The lease deed has been marked as Ex.P3. A perusal of the lease deed indicates that the lease period commenced on 05.06.2017 and would expire on 03.06.2047. The rental agreed is Rs.14,000/- p.m. and a deposit of Rs.2,00,000/- has been made by way of cash. The said lease is said to be executed on 03.06.2017 and had been registered on 05.06.2017. This execution is subsequent to 03.08.2016 on which date the accused had admittedly filed a memo in the execution proceedings stating that the possession of the schedule property is with the Cooperative Bank. It has not been explained by the accused as to on what basis the accused had handed over possession to M/s. Excel Kidz when even according to him the same was in possession of the Co-operative Bank. The said application filed by M/s. Excel Kidz was dismissed on 20.11.2017 and then no proceedings were initiated by M/s.Excell Kidz thereafter and they have not been heard of or from after such dismissal. There is no explanation provided by the accused as to on what basis he had executed a lease- cum-rental agreement in favour of M/s.Excel Kidz despite having suffered adverse orders in all the litigations filed by him. The execution of the lease-cum- rental agreement as also filing of the application under Order XXI Rule 97 of the Code of Civil Procedure got done by the accused through M/s.Excel Kidz is with an intent and motive of stopping the execution of delivery warrant issued in execution proceedings in Ex.P.No.25033 of 2012. The accused having failed in stopping the execution proceedings has got M/s. Excel Kidz to file the said application under Order XXI Rule 97 of the Code of Civil Procedure.

30. The accused also got another suit filed by M/s.Karnataka Dalitha Sangharsha Samithi on 22.07.2017 in O.S.No.5000 of 2017 against the accused wherein M/s.Karnataka Dalitha Sangharsha Samithi claims that it is in the possession and sought for an injunction against the accused. The suit by M/s.Karnataka Dalitha Sangharsha Samithi was filed while the application of M/s. Excel Kidz, Pre-Nursery School was being considered by the Executing Court. The suit was filed on the 10th day after possession was delivered to the complainant through the process of the Court. The claim of M/s. Karnataka Dalitha Sangharsha Samithi was on the basis of the lease agreement executed by the accused in favour of the Samithi on 28.12.2007. The said plaint is marked as Ex.P4. The Samithi in the plaint has claimed that it has entered into lease agreement on 28.12.2007 with the accused for a period of five years and has paid a sum of Rs.5,00,000/- towards lease amount and thereafter renewal lease agreement was entered into on 20.12.2012 for another period of five years which would expire on 20.12.2017. The accused has admitted the filing of the suit and has not denied the contents of the plaint in O.S.No.5000 of 2017. In fact, the accused in the advancement application filed on 26.07.2017 marked as Ex.P6 has categorically stated that on 21.07.2017 neither himself nor his henchmen interfered with the Samithi's possession and enjoyment of the schedule property. Thus, admitting the case of Samithi as alleged in O.S.No.5000 of 2017, the accused admits that he has received a copy of the plaint and IAs. He has stated "the plaintiff has given a copy of the plaint and IAs to him and on perusal of the plaint and IAs., I came to know that the plaintiff has not stated false facts and except the interference by him on 21.07.2017...." thereby the accused has certified

that the plaintiff has stated correct facts and admits to the contents of the plaint thereby admitting to the execution of the lease agreements in the year 2007 and renewal agreement in the year 2012.

31. The accused has apparently in collusion with the Samithi devised this new methodology to try and interfere with the course of justice and administration thereof. This is with an intention to obstruct the judicial proceedings. The accused has at no point of time in any of the proceedings from the year 2011 adverted to this lease in favour of M/s. Karnataka Dalitha Sangharsha Samithi. Therefore, it is clear that it is a got up document and accused has indulged in such fraudulent activities only to harass the complainant and thereafter to make unjust gains for himself by obstructing court proceedings.

32. During the pendency of the proceedings filed by the Samithi, the accused has filed a suit in O.S.No.5100 of 2017 against Mr. Natashekar @ Shekar on 27.07.2017 seeking for an injunction against Mr. Natashekar from interfering with the possession of the accused. Admittedly the possession was taken from the accused and delivered to the complainant on 12.07.2017 through the process of the Court as admitted by the accused himself. It has not been explained by the accused as to how the accused claimed possession of the schedule property and filed a suit in O.S.No.5100 of 2017 on 27.07.2017.

33. It is relevant to note that the suit in O.S.No.5000 of 2017 filed by M/s. Karnataka Dalitha Sangharsha Samithi was filed by an advocate namely Mr.V.Sudarshana, Flat No.101, Sri Sai Sannidhi Apartment, Amruth Nagar 'A' Sector, Near Muneshwara Temple, Amruth Nagar, Bangalore - 560 092 (Mobile No.97404 37926). It is the very same advocate Mr. V.Sudharshana who appears for the accused and files a suit in O.S.No.5100 of 2017. The accused and his advocate Mr.Sudharshana have overreached the judicial proceedings in order to obstruct the fruits of the decree obtained by the complainant have indulged themselves in these false got up proceedings.

34. The Hon'ble Supreme Court in the case of RAM AUTAR SHUKLA VS. ARVIND SHUKLA reported in 1995 SUPP (2) SCC 130 in Para No.7 have held as follows:

"7. Any interference in the course of justice, any obstruction caused in the path of those seeking justice are an affront to the majesty of law and, therefore, the conduct is punishable as contempt of Court. Law of contempt is only one of the many ways in which the due process of law is prevented from being perverted, hindered or thwarted to further the cause of justice. Due course of justice means not only any particular proceeding but broad stream of administration of justice...."

35. Learned Counsel for the accused has submitted that the accused was only acting under legal advice in order to protect his property. Therefore, his case may be considered sympathetically. The acts committed by the accused cannot be said to be innocent. The accused has executed lease cum rental agreement in favour of the M/s. Excel Kidz, Pre-Nursery School as also in favour of M/s.Karnataka Dalitha Sangharsha Samithi. He has made false statements. He has colluded with M/s.Karnataka Dalitha Sangharsha Samithi in O.S.No.5100 of 2017. The slew of proceedings filed in July 2017 are aimed only to interfere with the course of justice and administration thereof. These

cannot be pardoned under any circumstances. No litigant can seek to subvert the system established in the administration of justice. The accused in Ex.P3 i.e., the lease-cum- rental agreement executed in favour of M/s. Excel Kidz, Pre-Nursery School has stated that the document has been drafted by himself and signed it accordingly. The accused cannot be said to be an ordinary person or a lay person. He knows what the law is and he is aware of the consequences of his actions. The actions of the accused in the above circumstances are willful and have been so carried out with a calculated intention of interfering with the due course of judicial proceedings and interfering with the administration of justice.

Point No.1 is accordingly answered in the affirmative.

Point No. 2:

36. In view of the above discussion, the charges framed against the accused are proved. The accused had purchased the suit schedule property in violation of the temporary injunction granted by the trial Court in favour of the complainant/plaintiff in O.S.No.16494 of 2005. The accused had set up M/s. Karnataka Dalit Sangharsha Samithi to file a suit in O.S.No.5000 of 2017 before the City Civil Court, Bangalore against him. That the accused had set up several persons in Execution Petition No.25033 of 2012 to cause obstructions to the proceedings. Despite finality having been reached in the proceedings before the Hon'ble Supreme Court, the accused persisted in re-agitating the issues which were already settled by filing a suit in O.S.No.610 of 2017 before the City Civil Court, Bangalore.

37. For all the reasons aforesaid, we hold that the actions of the accused are prejudicial and same interfered with due course of judicial proceedings and amount to interference and obstructions with the administration of justice. Since the charges have been proved, we hold that the accused has committed gross contempt of court as defined in Section 2 (c) (ii) (iii) of the Contempt of Courts Act, 1971. The accused who is guilty of contempt within the meaning of Section 2 (c) of the Contempt of Courts Act, 1971 is punishable under Sections 11 and 12 of the Act.

38. The acts committed by the accused cannot be said to be innocent. The proceedings initiated by the accused are in order to prevent the complainant from enjoying the usufructs of the decree. The proceedings initiated by the accused establish the utter disregard that the accused has towards the orders of this court and are aimed only to interfere with the course of justice and administration thereof. Such actions cannot be pardoned under any circumstances. We are conscious of the fact that the contempt jurisdiction should be exercised sparingly. However, no litigant can seek to subvert the system established for the administration of justice.

39. On account of various litigations which have been initiated by the accused, the complainant has been forced to defend various unnecessary proceedings. The complainant had entered into an agreement of sale on 16.03.2007 and filed a suit in O.S.No.16494 of 2005 wherein a decree came to be passed on 29.01.2011. Due to the complicity between the vendor Smt. Indu Kumari and the accused herein the accused has purchased the property during the pendency of the injunction order. He has set up Karnataka Dalit Sangharsha Samithi and certain others to delay the complainant from

exercising rights over the property.

40. In the aforesaid circumstances and having regard to the facts as explained earlier, mere imposing of a fine will not meet the ends of justice. It is, therefore, required that a sentence of imprisonment be passed against the accused. We direct the accused to undergo simple imprisonment for a period of four months as also to make payment of fine of Rs.2,000/- payable to the Registrar of this Court within a period of four weeks from the date of this judgment. The accused shall be arrested forthwith and sent to prison. Hence, we pass the following:

ORDER

i) Criminal Contempt petition is allowed.

ii) We hold that the accused has committed gross contempt of court as defined under Section 2 (c)

(ii) (iii) of the Contempt of Courts Act, 1971.

iii) The accused is sentenced to imprisonment for a period of four months along with a fine of Rs.2,000/- to be paid before the registry of this Court within a period of four weeks from the date of receipt of a copy of this judgment. Failure to remit the fine amount will entail the accused to undergo further imprisonment for a period of one month.

Sd/-

JUDGE Sd/-

JUDGE Prs*