

**K.A. Devaraj Vs. the District Commissioner and ors.**

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**Court :** Karnataka

**Decided On :** Aug-12-2008

**Reported in :** ILR2008KAR5051; 2008(4)KCCR2773(DB)

**Judge :** S.R. Bannurmath and ;A.N. Venugopala Gowda, JJ.

**Acts :** Payment of Gratuity Act, 1971; Karnataka Land Reforms Act - Sections 79A and 79B

**Appeal No. :** C.C.C. No. 673 of 2007

**Appellant :** K.A. Devaraj

**Respondent :** The District Commissioner and ors.

**Advocate for Def. :** G. Krishnamurthy, Spl. G.A. and ;Udaya Holla, Adv. General

**Advocate for Pet/Ap. :** H. Mangalamba Rao, Adv.

**Judgement :**

ORDER

**A.N. Venugopala Gowda, J.**

1. With the consent of both sides, the matter is heard for final disposal.

The complainant, as the General Secretary of Bharathiya Majdoor Sangha, had filed writ petition No. 10178/2005 against the Deputy Commissioner, Bangalore

Urban, Bangalore to recover from the employer, the Management of Dominion Chemical Industries Ltd., Bommanahalli, Bangalore 560 068, the amount of gratuity, as decided by the Authority under the Payment of Gratuity Act, in terms of the order dated 28.10.2004. After hearing the learned Counsel for the parties and taking into consideration the submission made by the learned High Court Government Pleader that, the Deputy Commissioner (District Commissioner) would immediately take action in accordance with law, to recover the money from the employer in terms of the order dated 28.10.2004 passed by the Authority under the Payment of Gratuity Act, the writ petition was allowed in part, by an order dated 23.2.2005 and a direction was issued to the District Commissioner, Bangalore Urban to recover from the employer, the gratuity amount due to the workmen, as determined by the Authority, within a period of 4 weeksr.

2. A representation was submitted by the complainant on 6.8.2007 to the respondent/accused, to give effect to the said order. Alleging willful disobedience of the aforesaid order of this Court, this contempt petition has been filed to initiate civil contempt proceedings against the respondent.

The respondent filed counter affidavit dated 14.3.2008, with Annexures R1 and R2. The complainant filed rejoinder statement on 2.6.2008. The respondent filed another counter affidavit dated 17.6.2008. IA No. 2/08 was filed by the respondent to recall the order dated 18.6.2008, whereby the case had been posted for framing of charges. The Deputy Commissioner, Bangalore Urban, Bangalore has also filed an affidavit dated 8.8.2008.

3. We have perused the record and heard the learned Counsel for the complainant and the learned Advocate General for the respondent/accused.

Learned Advocate General by referring to the record, stated that, the direction issued by the learned Single Judge, in the order dated 22.3.2005 passed in writ petition No. 10178/2005, has now been complied with and hence the contempt proceedings may be dropped.

4. He further stated that, the delay in complying with the order was on account of the employer i.e., the Management of Dominion Chemical Industries Ltd., having

sold its assets and moved out of the place and the further details being not available. It is stated that the respondent did take diligent steps to give effect to the said direction of this Court and that there was no willful disobedience or non compliance, to initiate these proceedings.

5. The submission made by the learned Advocate General regarding compliance of the direction issued by this Court in the aforesaid writ petition, is not disputed by Smt. H. Mangalamba Rao, learned Counsel for the complainant. But the learned Counsel submitted that, though the order has now been complied with, the respondent who is vested with the jurisdiction to take steps to recover the amount determined by the Authority under the Payment of Gratuity Act or the awards passed by the Labour authority/Tribunal, has not been giving effect to the same and there is always considerable delay, the resultant effect being that, the workmen are subjected to severe loss and hardship. She pointed out that, though the writ petition was allowed on 22.3.2005 with a direction that the amount be recovered from the employer within a period of 4 weeks, even after the filing of the contempt petition, it has taken a long period for the respondent to give effect to the direction.

6. According to the learned Counsel, several similar cases are pending before the Authorities like the respondent and this Court should take note of the same and pass appropriate orders.

In view of the fact that, the direction issued in writ petition No. 10178/2005 dated 22.3.2005 has since been complied with, though there is delay in compliance, the petition being a civil contempt, we deem it appropriate, not to proceed further against the respondent, in this contempt petition.

7. We find considerable justification in the submission made by the learned Counsel for the complainant that, the delay in giving effect to the order/Award etc., passed by the Authorities/Tribunal under Labour Laws, causes great hardship to the workman. Hence the concerned Authorities, should take immediate action, for giving effect to the orders/awards passed by the competent authority/Tribunal, vested with the jurisdiction under the Labour Laws, to avoid hardship to the workman. Needless to observe that the workmen will always be the weaker

section and it will be hard for the workman to sustain even after succeeding before the authority/Tribunal. The orders/awards passed by the Authority or Tribunal, vested with the jurisdiction, if has become final, should be implemented by all the concerned authorities without any delay.

8. The respondent and other District/Deputy Commissioners, should immediately nominate a separate officer, to monitor the cases relating to the implementation of the orders/Awards etc., of the Labour Officer/Tribunal etc., and to take necessary steps from time to time, to give effect to the orders/awards and to recover money from the management/employer and arrange the payment to the workmen.

In this case, from a perusal of the affidavits filed by the respondent from time to time, discloses that, steps had been taken to proceed against the management/employer, to recover the gratuity amount. On account of the fact that, the employer/management, had sold its assets and had moved out and in the absence of the address and other particulars, the gratuity amount determined by the Competent Authority was not recovered, within the time granted by the Court.

9. Since bonafides have been shown, we deem it appropriate to condone the lapse in not complying with the order within the time set by this Court. Consequently we hold that, there is no willful disobedience/non compliance, to frame charge and try the respondent/accused under the provisions of the Contempt of Courts Act, 1971.

In the affidavit dated 17.6.2008 filed by the respondent, it is stated that, though the land of the employer/management was forfeited in the year 1997 itself by the Assistant Commissioner under the provisions of the Karnataka Land Reforms Act, the Deputy Commissioner's office had no knowledge and came to know of the same after the records of the Tahsildar's office was verified. It has been stated that, after noticing the lapses, immediate action was taken to implement the order of forfeiture and the name of the Government was entered in respect of the land as per MR No. 34/2007-08 and entry in the RTC and Pahani in column No. 9, showing the name of the Government was entered and that steps were taken to take possession of the land to the Government.

10. On noticing the said aspect we had earlier requested the learned Advocate General to state the further course of action taken i.e., whether the possession of the forfeited land was taken over or not. In the affidavit dated 8.8.2008 filed by the present Deputy Commissioner, it has been stated that, pursuant to the enquiry initiated, it has come to light that, the land in question belonged to B. Muniyappa and B. Suresh, was converted for non agricultural use as per conversion orders dated 24.5.1995 and 5 .5.1995 and the sale in favour of M/s Dominion Chemical Industries Ltd. was on 5.7.1995 under two different sale deeds of the same date. It is further stated that, the Assistant Commissioner who passed the forfeiture order dated 18.8.1997 under the provisions of Section 79-A and B of the Karnataka Land Reforms Act, was without noticing the said conversion orders. Learned Advocate General made available for our perusal, the file relating to the passing of the said conversion orders.

11. From a perusal of the file, it became evident that, the land was converted for non agricultural use on 21.4.1995 and 5.5.1995 and the sale of the said lands in favour of M/s Dominion Chemical Industries Ltd. was on 5.7.1995 under two different sale deeds. As such the order passed on 18.8.1997 by the Assistant Commissioner in exercise of the jurisdiction under Section 79-A and B of the Karnataka Land Reforms Act, is erroneous and the action taken on the basis of the said order, to incorporate in the mutation and RTC, the name of Government as stated in the affidavit of the respondent dated 17.6.2008 is bad and consequently the entries made as per MR No. 34/2007-08 and in the RTC and Pahani in column No. 9 incorporating the name of the Government has to be immediately reversed, to avoid any kind of harassment to the owner of the property. The respondent shall initiate necessary action in that regard.

For the foregoing reasons, we do not find this to be a fit case, to take any further action in the matter, in view of the compliance reported by the respondent/accused and accepted by the complainant. Consequently the contempt proceedings are hereby dropped. However the concerned authorities, shall nominate an officer in each of the Deputy/District Commissioners Office to oversee the implementation of the orders and/or awards passed by the Authorities/Tribunal's, constituted under the Labour Laws.

12. The respondent shall ensure that, the entries made as per MR No. 34/2007-08 and in column No. 9 of RTC and Pahani in respect of the land bearing Sy. Nos. 40 and 41 of Kammasandra Village, Kasaba Hobli, Anekal Taluk is reversed and the earlier entries restored, without any loss of time.

The contempt petition stands disposed of accordingly.

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