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Court : Chennai

Decided On : Jan-24-2003

Reported in : 2003(1)CTC461

Judge : S. Jagadeesan and ;P.D. Dinakaran, JJ.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 92; Contempt of Court Act, 1971 - Sections 12

Appeal No. : Suo motu Contempt Petition No. 768 of 2002

Appellant : Dr. S. Ramadoss and Two ors.

Advocate for Pet/Ap. : G. Masilamani, Sr. Counsel for ;G.M. Mani Associates for Contemner No. 1, S. Sampathkumar, Adv. for Contemner No. 2 and ;K. Alagappan, Adv. for Contemner No. 3

Judgement :

ORDER

S. Jagadeesan, J.

1. The proceedings were initiated by this court on the basis of the letter dated 23.10.2002 written by Honble Mr. Justice A. Thangamani, who was appointed as the Chairman of Sri P.T. Lee Chengalvaraya Naicker Trust in accordance with the Scheme framed by this court in the suit C.S.No.242 of 1986, as confirmed by the

Apex Court. As the said Chairman nominated by this court reported that he was not permitted to enter into the premises and virtually his car was blocked and a mob prevented him from proceeding towards Trust office.

2. Subsequently, when the matter was listed on the basis of the said letter, the respondents herein, the contemnors filed affidavits, giving out their own suggestions for the modification of the Scheme and also stated that the functioning of the Trust had become stand still because of the resignation of the Chairman and the proposed resignation of those Trust Board members nominated by this court who do not belong to Vanniyar Community.

3. On the basis of the affidavits filed by the respondents herein and the incident that took place at the Trust Board office where the Chairman was prevented from entering into the Trust Board office, this court came to the conclusion that both the actions are inter-related and as such the respondents herein may be responsible for the incident that took place at the Trust Board office. This court decided to initiate suo motu contempt proceedings and show cause notice was served on the respondents herein. On receipt of the notice in the contempt application the contemnors filed the affidavits.

4. The first respondent filed an affidavit stating that the averments made in the affidavit filed by him before this court on 22.10.2002 are on the basis of the information received by him. On coming to know about the resignation of the Chairman of the Trust Board, with bona fide intention that the Scheme may be modified for the proper and true functioning of the Trust, he made suggestions in the affidavit for the consideration of this court. Whatever stated in the affidavit are his personal view for the interest of the Trust. Having filed the suit for framing the Scheme, in paragraph 6 of the affidavit, he has stated that when once the Scheme has been framed by the Hon'ble Single Judge of this court for the constitution of a separate Trust Board for P.T. Lee Chengalvaraya Naicker Trust, his object was fulfilled and he has no intention to interfere with the administration of the Trust any longer. Further he has stated that he did not intend to cause any disrespect or disobedience to the orders of this court.

5. Similarly Mr. A.K. Natarajan, the third respondent also filed the affidavit wherein he has stated that though originally the suit was filed along with the other respondents, subsequently the relationship fell through. In paragraph 7 he has specifically stated that he washed off his hands of the Trust. Though he has not offered any unconditional apology, but conditional apology was offered, stating that he is interested in the welfare and development of the Trust and he is ready to cooperate for the effective functioning of the Trust, if he is called upon to do so.

6. The third respondent also filed counter affidavit on similar lines, stating that he is interested to give effect to the wishes of the testator and nothing more. He has not acted adverse to the orders of this court and as such he may be relieved from the contempt proceedings.

7. This court initiated contempt proceeding taking into consideration of the incident that took place at the Trust Board office, wherein the non Vanniyar Trust, Board members as well as the. Chairman were prevented from entering into the Trust Board office by the persons belonging to the Vanniyar Community, together with the affidavits filed by the contemnors before this court for modification of the Scheme stating that only persons belonging to Vanniyar Community alone can be appointed and no other person can be appointed to the Trust Board.

8. In our view, the conduct stated above, including the filing of the affidavits, suggesting the modification of the Scheme, giving out their own views, is contrary to the scheme framed by this court, which were confirmed by the Apex Court.

9. When once this court framed the scheme, the respondents herein, being party to the proceedings, are expected and also bound to carry out the orders of this court. It is not open to them to give out their own suggestions as and when they like, on the inferences and surmises, without reference to the true state of affairs.

10. Being party to the proceedings, before ever any affidavit is being filed in the proceedings before this court, they are duty bound to verify as to the action of others and the necessity for the Chairman of the Board to send the letter of resignation to this court. Without doing so, it is not proper on their part to file such affidavits for the modification of the Scheme, on the basis of some information,

expressing their own, views, without any reference to final orders of this court, framing the Scheme.

11. But now that all the three having realised their follies filed the affidavits before this court stating that they have no objection for the Trust Board nominated by this court in accordance with the scheme to function and they will not do any act disrespecting the orders, of this court, we accept their affidavits.

12. When the contempt petition was listed on 19.11.2002, though the personal appearance of the respondents was not dispensed with, the first respondent did not appear and - on his behalf an oral representation was made.

13. As held by the Apex Court in Delhi Development Authority v. Skipper Construction and Anr., : when the contempt petition was listed with the knowledge of the contemnors, it is the duty of the contemnors to file an affidavit, seeking permission of the court for dispensing with the appearance which had not been done in this case. But, however, this court reprimanded the conduct of the first respondent and accepted the representation of the learned senior counsel and dispensed with the personal appearance of the first respondent [by order dated 8.1.2003 in the following terms:

'The first respondent did not appear today. Mr. G. Masilamani, learned Senior Counsel represented that due -to unavoidable circumstances and emergency, he could not be present and he was on his way to Delhi. When the case is listed today, the first respondent ought not to have absented himself. Though it is a serious offence, in view of the representation of the learned Senior Counsel Mr. G. Masilamani and Mr. Sampathkumar that pursuant to the orders of this Court, the Trust Board nominated by this Court started functioning, a quietus can be given to The contempt proceedings and as the respondents also consent for the 'functioning of the Trust Board nominated by this Court/ taking a lenient view for today/ we are dispensing with his appearance. All the respondents are directed to appear on 24.1.2003 on which date, the matter will be decided with regard to giving a quietus on the basis of the representation made by the learned Senior Counsel Mr. G. Masilamani and Mr. Sampathkumar that the Trust is functioning and two meetings have already been convened.'

Having dispensed with the appearance of the first respondent now this court is not inclined to take any action for non-filing of the affidavit.

14. The third respondent herein filed C.M.P. 12344 of 2002 for modifying the scheme on the basis of the earlier affidavit filed by him for the modification of the scheme stating that only the persons of Vanniyar Community can be in the Board. Though the counsel for the third respondent represented that the petition may be dismissed as not pressed, in fact the learned counsel for the petitioner made an endorsement to that effect in the petition. On the basis of the said representation/ the petition is dismissed.

15. Though the petition is dismissed this court could not restrain from making an observation with regard to the conduct of the respondents herein in seeking for the modification of the scheme framed by the court by stating that only the persons belonging to Vanniyar Community can be in the Trust Board.

16. The petitioner Trust is running the educational institution. In the recent judgment in Aruna Roy's case, : the Apex Court had an occasion to deal with the necessity of education on religion and held as follows (Paras 30 and 31)

'Undisputedly, the aforesaid S.B. Chavan Committee's Report was placed before Parliament for discussion. None can also dispute that the past five decades have witnessed a constant erosion of the essential social, moral and spiritual values and increase in cynicism at all levels. We are heading for a materialistic society disregarding the entire value based social system. None can also dispute that in a secular society, moral values are of utmost importance. A society where there are no moral values, there would neither be social order nor secularism. Bereft of moral values secular society or democracy may not survive. As observed by the Committee, values are virtues in an individual and if these values deteriorate, it will hasten or accelerate the breakdown of the family, society and the nation as a whole. In a society where there is constant evaporation of social and moral values for getting property, power or post, - - is it not advisable to have a solid social foundation from the base level so that a grown-up person would fight against all kinds of fanaticism, ill will, violence, dishonesty, corruption and exploitation? The answer would obviously be--'yes'.

Further, for controlling the wild animal instinct in human beings and for having a civilized cultural society, it appears that religions have come into existence. Religion is the foundation for value-based survival of human beings in a civilized society. The force and sanction behind civilized society depends upon moral values. The philosophy of coexistence- and how to coexist is thought over by the saints all over the world ' which is revealed by various philosophers. 'How to coexist, not only with human beings, but all living beings on the earth, may be animals, vegetation and the environment including air and water, is thought over and discussed by saints and leaders all over the world which is reflected in religions. If that is taught, it cannot be objected as it is neither violative of constitutional or legal rights nor it offends moral values.'

Further the learned Judges deal with the contention with regard to the violation of Article 29 of the Constitution of India as follows:

'NCFSE nowhere talks of imparting religious instructions as prohibited under Article 28. What is sought is to have value-based education and for 'religion' it is stated that students be given the awareness that the essence of every religion is common. Only practices differ. There is a specific caution that all steps should be taken in advance to ensure that no personal prejudices or narrow-minded perceptions are allowed to distort the real purpose. Dogmas and superstitions should not be propagated in the name of education about religions. What is sought to be imparted is incorporated in Article 51-A(e), which provides

'to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women

and to see that universal values, such as truth, righteous conduct, peace, love and non-violence be the foundation of education.'

The Apex Court asserts the need of promoting harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities through education.

17. This court cannot tolerate the perseverance on the part of the respondents herein to modify the scheme framed by the court to exclude the other community people from the management of the Trust under the guise of expressing their views.

18. The respondents or any other individual belonging to Vanniyar Community cannot be permitted to make any representation for the management 'of the Trust exclusively by those belonging to the Vanniyar Community and seek for modification of the Scheme framed by this court. This is essential as expressed by the Apex Court in Aruna Roy's case that the regional or sectional diversities cannot be permitted to develop among the people of India; especially in the minds of the younger generation. If the request of the respondents is conceded and the management of the Trust make the respondents to realise their mistake and to make them to obey the orders of this court with due respect.

19. During the pendency of the contempt proceedings, the Administrator General and Official Trustee was directed to be in charge of the management. He also filed C.M.P. 18471 to 18473 of 2002 for appropriate directions. But now that the Trust Board is functioning as per the direction of this court and the Trust Board has been directed to consider the representation made by the Official Trustee, this court is of the view that there is no need to pass any orders on these petitions and accordingly these petitions are also dismissed.

20. For the reasons stated above the contempt application is closed, Consequently C.M.P. 12345 of 2002 and sub-application 12 of 2003 are closed.

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