(1990) 05 CAL CK 0006

Calcutta High Court

Case No: C.O. No. 13552 (W) of 1985

Mira Chaudhuri and Anr	APPELLANT
Vs	
Ramnarayan Jha	RESPONDENT

Date of Decision: May 11, 1990

Acts Referred:

- Urban Land (Ceiling and Regulation) Act, 1976 - Section 19, 38, 6(1)

Citation: 96 CWN 996

Hon'ble Judges: Bhagawati Prosad Banerjee, J

Bench: Single Bench

Advocate: S.N. Roy, for the Appellant; J.P. Srivastava and B. Kumar, for the Respondent

Judgement

Bhagawati Prosad Banerjee, J.
The contempt application was filed for alleged violation of the interim order dated 1st October 1985 passed by this court in C.O. No. 13552(W) or 1985 against Sri Ramnarayan Jha, Additional collector, Land Ceiling. Ranchi, Bihar on 1st October 1985 on the writ application filed by the writ petitioner. The following interim order was passed -

Ad-interim order of injunction restraining the respondents herein from taking any- steps or further steps and/or actions under the purported proceeding and/or the pretended Notification dated September 3.1985 being Annexure "E" to this petition in any manner whatsoever and/or creating any disturbance and/or interference in any manner whatsoever pending the disposal of the Rule.

The case of the petitioner in the writ application was that the petitioners were the trustees of the Charitable Educational Trust under the name of Sarasibala Debi Trust created under a deed of trust dated 29th March 1966 which was registered at Calcutta. The said trust holds several properties including the property at Ranchi where the trust has established, set up and is running a free charitable primary school in village Gari, District Ranchi for the benefit of poor and backward Adibassi children residing in the adjoining

villages. The School was set up to carry out the object of the said trust. The relevant provisions of the said Trust deed were that the net income of the trust property shall be used and applied for charitable purpose without reference to caste and creed and to help and promote education and learning, including primary, higher and college education for boys and girls etc. The other object of the trust was to give monetary help to educational institutions including libraries, pathsalas. Fine Art Classes etc. and also to give doles to poor students in cash or in kind, free food and the like, fn short the purpose of the trust was wholly public and charitable. In the said free primary charitable institution about 100 Adibasi students read and there are more than two teachers whose remunerations are paid out of the income of the trust and donation by the trustees made from time to time. The main income is derived from the house rent in premises no. 2. Hazartbagh Road. Ranchi being the properly of the trust which at present in under the occupation of the Animal Husbandry Department of the Government of Bihar. Apart from the building occupied by the Animal Husbandry Department there is land measuring 6.33 acres, a portion of which is earmarked for the purpose of setting up ''Surendranath Centenary School'' for which steps have been taken and is in a fairly advanced stage in accordance with the provisions of the trust deed. It may be mentioned that Sarasibala Devi in whose name the trust was created, was a daughter of Rastraguru Surendranath Banerjee and mother of Ranadeb Chaudhury, the propounder and founder of the said trust. The property which was the subject matter of the proceedings was the original property of late Rastraguru Surendranath Banerjee and subsequently purchased by his grandson Sri Ranadeb Chaudhury for the purpose of setting up an education complex and made it over to Sarasi Bala Devi Trust for advancement of education through the said Public Charitable Trust. The said trust was duty-registered with the Registrar of Assurances and Income Tax department as a charitable trust. For the purpose of setting up the said Centenary School at Ranchi the trust had kept in deposit a sum of Rupees ten lakhs in the State Bank of India, Ranchi. It was also pointed out that the said Animal Husbandry Department had been regular defaulters in the payment of rent: They totally stopped payment of any rent from March 1982. Under such circumstances the said trust instituted a suit for eviction in the District Court at Ranchi on the ground of default and personal requirement for the purpose of setting up the said school. It is stated that evidences of both parties were taken and the matter was fixed for final disposal on 14th October 1985. The Government Pleader, however, on the 14th October, 1985 challenged the Petitioner''s right to hold onto the property and preceded to cross examine P.W. 2, Shri Jasodeb Chaudhury as no return had been filed u/s 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976. Immediately before they had induced the Land Ceiling authorities to serve Notice on the Managing Trustee of Sarasi Bala Debi Trust for prosecution u/s 38 of the Urban Land (Ceiling and Regulation) Act, 1976 bearing dates 31-8-1985/3-9-1985 which formed the basis of challenge in the present Writ petition.

2. In fact the petitioner had submitted a return u/s 6(1) of the. Urban Land (Ceiling & Regulation) Act 1976 within the time fixed by the said act. It is stated that the Animal Husbandry Department after taking adjournment from the Civil Court in the said eviction

case moved the Urban Land Ceiling Department to take over the property from the trust suppressing the fact that the property in question was held by a Public Charitable Educational Trust which is exempted u/s 19 of the Urban Land (Ceiling & Regulation) Act. 1976 and was also a horticultural property. The said Land Ceiling authorities recorded in the impugned notice that the said authority has been informed that the trust holds 10.50 acres and 5.37 acres of land respectively under plot nos. 714 and 716 in Khata no. 160 Thana No. 194, Mouza Gari.

3. After the notice had been served on 3-9-1985 the suit filed by the trustees against the Animal Husbandry Department, Government of Bihar for eviction was disposed of by the Additional Subordinate Judge. Ranchi being Title Eviction Suit No. 180 of 1983 by the judgment dated 30th April, 1986. By the said judgment the suit was decreed on contest and the State of Bihar was directed to vacate the suit premises within three months from the date of the said order and to hand over the possession to the Plaintiff namely the trustees of the said trust.

4. In the suit one of the issues were whether the property was required reasonably and in good faith by the plaintiff in question for the purpose of the school. On that issue the learned Additional Subordinate Judge. Ranchi had held that the suit premises includes vacant land and is the property of the trust whose aim and object is ambitious. Its aim is to impart, inter-alia free education and for that purpose the so it premises was required. The ambitions plan of the trust was to construct a full fledged building with all amenities to build the career of the poor, dispossessed children ad to shoot up their mental equipment and a clinic was also urgently required.....held from the evidences it was proved that the trust had taken steps for the start of a school and it evidences a noble desire of the trust for functioning of the school and satisfied the requirement of a Charitable trust.

5. It is stated that an appeal was preferred against the said judgment being Appeal No. 30 of 1986 and in the appeal the judgment of the lower court was upheld and the Government of Bihar complied with the directions of the court and handed over possession of the suit property.

6. In the contempt application it was stated that the order passed by this court in 1st October 1985 was sought to be served by Bal Mukund Lal practising advocate at Ranchi who affirmed an affidavit in which it was stated that on 12-10-95 Shri Ranadeb Cbnudhuri came to the Civil Court at about 11.30 A.M. and requested him to serve on the Additional Collector (Ceiling) Ranchi the order of the Calcutta High Court communicated by the letter of Sri S.C. Roy and a copy of the writ application filed by the trustees. It was stated the Additional Collector (Ceiling), Ranchi read all the papers and then instructed the clerk not to accept the papers on the plea that the typing of copy of the writ petition was not legible. It was pointed out by the said learned advocate that the typing was clear but the said officer insisted on serving fresh copy. On 14.10.85 Mr. Ranadeb Chaudhury supplied the said learned Advocate Mr. Lal a fresh copy of the writ application along with the other papers namely copy of the order of the High Court, notice and the forwarding letter of Shri

S.C. Roy and on 14.10.85 the said learned advocate Mr. Lal went to the office of the Additional Collector (Ceiling) and handed him all the papers who refused to accept them on the plea that the learned Advocate Mr. Lal did not file any power or vokalatnama on behalf of the trust. Again on 17-10-85 at about 11.30 A.M. the learned advocate Mr. Lal along with his senior Mr. B.N. Roy learned Advocate and Mr. Ranadeb Chaudhury went to the office of Ram Narayan Jha and requested him to accept the notice and other papers. The said Sri Jha refused to accept the notice and other papers on the plea that the said Mr. B.N. Roy did not file any vokalatnama. It was stated on affidavit that Shri B.N. Roy pleaded that in view of the order of the High Court, no power was required to be filed to serve the notice. This learned Advocate introduced Sri Ranadeb Chaudhury but the Additional Collector took a plea that he did not recognize Mr. Ranadeb Chaudhury and that he might be an imposter. There were some arguments by Mr. Roy and thereafter the Additional Collector called Mr. J.N. Singh, officer of the said office and directed the learned Advocate and Mr. Chaudhury to accept their notice. Mr. Ranadeb Chaudhury refused to accept the notice so long as the notice of the Calcutta High Court matter was pending. A copy of the petition was received and thereafter the said Sri Ranadeb Chaudhuri received the notice without prejudice.

7. Thereafter the contempt rule was issued and Sri Jha appeared in court and filed affidavit and at para 12 of the affidavit-in-opposition he expressed regret and agreed to withdraw the impugned notice.

8. The- fact disclosed in the contempt application is very unfortunate. -A responsible officer who is the in charge of such matters is not excepted to behave in such a fashion.. When this court has passed an order and when the copy of the order was sought to be served upon him it was his duly to accept such an order. But it appears that he had done something which is highly unprenensible. An officer of the rank is supposed to know the practice and procedure of the court of law and this court had no hesitation in holding that the said officer had done everything knowing fully well the implication thereof. From this it is clear that the bureaucrats are allergic to courts of law. This is a tendency which has grown up in recent times and it has become rather fashionable for the bureaucrats to indulge in bragging and when orders of the court are passed, bureaucrats were not supposed to accept it and indulge in unfounded criticism. This is a destructive process which had started in the administration. It is high time that the government must realize that unless this destructive process is to be put to an end the constitutional machinery of the country will be completely broken down. When the Constitutional machinery of this country cannot remain, the judiciary is one of the three policies of democracy and one of the policies is sought to be destroyed by the government and the government machinery in that event, they will be responsible bringing a choatic condition. At the same time the courts have consistently taken a lenient view of the matter and the leniency had encouraged directly. In this particular case, the contemnor behaved in such a fashion which is unbecoming of public service. When the order of this court was brought to the notice, he had no jurisdiction to proceed with the proceedings and to serve a copy of the

notice upon Mr. Ranadeb Chaudhury. This clearly indicates that the contemnor had willfully, deliberately violated and flouted the order of the court. The learned Advocate had affirmed an affidavit which had not been challenged and this court has no hesitation in accepting the statement by the learned Advocate on affidavit as true and, correct. The said affidavit of the learned advocate indicates the horrible state of affairs and it also indicates that these officers had no regard to the order passed by this court. As the officer at the court has expressed regret in the matter, this expressed regret in open court may minimize the punishment that may be awarded. But this is a clear case that he had violated the order of this court and this officer must know that when he is a respondent in the writ application and when the order was passed by this court, it was the duty on the part of the officer to accept the order of the High Court which was served upon him with vokalatnama. This attitude of the officers clearly indicated that they had not acted bonafide at all. The case of the petitioner in the writ application is that the proceeding is initiated at the instance of the Animal Husbandry Department in State of Bihar. But after having faild to initiate all the proceedings, these officers who are parlies to machinatious method, had lost their head and duty on anger they have done it, but these officers must remember that when an order passed by the High Court is placed before them, they can take steps in accordance with law by filing and making application for modification of the order and so long the order remains, they are not expected to behave in this manner in which they behaved in this matter. The most unfortunate part of this case is that when Civil Courts had clearly indicated that the property in question was held by public charitable trust and that the particular property in question was required for the purpose of setting up a school for which the learned Additional District Judge, Ranchi had expressed pleasure for the object of the trust, these authorities have no right to take any steps and on the contrary proceed with the proceedings. Orders are meant for public to carry them out and when these officers refuse to carry out the order, they have to face consequences.

9. In the result, I hold that the contemnor has committed contempt by violating the order passed by this court in the manner indicated and further they have acted in a manner which is serious to the judicial system of this country.

10. In the result I hold that the contemnor had violated the order passed by this court by proceeding with the case inspire of the order passed by this court. Accordingly he is found guilty of contempt. But because of tendering unqualified apology and regret over the matter, the court takes a lenient view in the matter of awarding punishment when the fact the officer had violated the order of the court willfully and behaved in a manner which is unbecoming of a government servant which is to be recorded in the service book and the conduct of the officer is highly condemned. In the result, the contempt rule succeeds to the extent indicated above. Let a copy of this order be forwarded to the Chief Secretary of the State of Bihar who is requested to place the same in the service record of the Opposite party contemnor Ram Narayan Jha, Additional Collector, Land Ceiling. Ranchi.