

A MAHANT LALITA SHARANJI  
v.  
DEOKI DEVI  
(Contempt Petition (Civil) No. 1758 of 2017)  
B In  
(Contempt Petition (Civil) No. 258 of 2010)  
In  
(Civil Appeal No. 394 of 2009)

C FEBRUARY 16, 2018

**[MADAN B. LOKUR AND DEEPAK GUPTA, JJ.]**

*Contempt of Court – Construction over the disputed land by respondent, in violation of the interim order – Contempt petition against the respondent – During pendency, demolition of offending construction by the respondent – Disposal of the contempt petition as also undertaking by the contemnor that the existing built up construction would not be used for human habitation till the disposal of the appeal – However, respondent again raised construction on the same land and was residing therein – Second contempt petition – Respondent’s case that due to the dilapidated nature of the property, she carried out some maintenance work but was not using the same – Held: In case respondent felt that the property is going to waste, the proper course for her was to approach this Court either for modification of the earlier order of injunction or to seek fresh order to protect the property – She could not have taken the law in her own hands and totally violated the interim order of injunction granted by this Court – Photographs of the property clearly show that it was being put to commercial and residential use – Conduct of respondent is contemptuous – It seems that since respondent got off very lightly in the earlier contempt proceedings, she felt that she could take the law into her own hands – Respondent not only wilfully and knowingly disobeyed the interim order of this Court, but also violated her solemn undertaking given to this Court and the order passed in the earlier contempt proceedings – Therefore, she is guilty of civil contempt – She has not even tendered an*

H

*apology-qualified or unqualified – There is no redeeming factor except the fact that she is a lady aged 63 years – Respondent sentenced to simple imprisonment for 3 months with fine of Rs.2000 – In case the respondent removes the entire construction and hand over the vacant and peaceful possession of the land within the stipulated period, the sentence of imprisonment would be suspended.*

A

B

CIVIL ORIGINAL JURISDICTION: Contempt Petition (C) No. 1758 of 2017 in Contempt Petition (C) No. 258 of 2010 in Civil Appeal No. 394 of 2009.

From the Judgment and Order dated 10.03.2006 of the High Court of Judicature at Allahabad in Civil Misc. Writ Petition No. 12972 of 1984.

C

Neeraj Kumar Jain, A. Mariarputham, Sr. Advs., T. N. Singh, Ms. Aruna Mathur, Ms. Anuradha Arputham, Sanjay Singh, Vikas K. Singh for the Petitioner.

Deeptakirti Verma, Adv. for the Respondent.

D

The Judgment of the Court was delivered by

**DEEPAK GUPTA J.** 1. The petitioner filed Special Leave Petition (Civil) No. 14543 of 2006, in which a prayer for grant of interim relief was made and it was prayed that this Court may grant ex parte stay of the impugned judgment dated 10.03.2006 passed by the High Court of Allahabad in Civil Miscellaneous Writ Petition No. 12972 of 1984. Further prayer made was that Deoki Devi, be restrained from raising any construction over the land in dispute being part of Plot No. 212/2 situated on Vrindavan Chatikara Agra Main Road and from changing the nature of the land in dispute. This Court, while issuing notice on this petition on 11.09.2006, directed that status quo shall be maintained. Thereafter, leave was granted on 05.01.2009 and it was directed that the interim order was to continue.

E

F

2. Despite the interim orders, Deoki Devi raised construction whereafter the petitioner filed a complaint on 02.10.2010 before the Officer In-charge of Police Station Vrindavan and thereafter, filed Contempt Petition No. 258 of 2010 in this Court. Notice on the said contempt petition was issued to Deoki Devi on 08.10.2010 and it was again directed vide order dated 22.11.2010 that no construction of any

G

H

A nature – temporary or permanent, shall be raised. When the contempt proceedings were pending, Deoki Devi filed reply to the same. Initially she contested the contempt proceedings but then she admitted that in the year 2010 heavy rains had lashed the area of Mathura-Vrindavan and because there was imminent danger to the building, she had carried out some repair works. However, on 31.01.2011, learned counsel appearing for Deoki Devi submitted that the offending construction had since been demolished. An undertaking was also given by Deoki Devi that she would not raise any construction on the said land and therefore, the contempt had been purged. Thereafter, on 21.02.2011, this Court disposed of the Contempt Petition (Civil) No. 258 of 2010 in the following terms:

D “After filing of the present petition, admittedly, substantial part of the offending construction carried out by the respondent – alleged contemnor has been demolished. It is stated by learned counsel appearing for the respondent that the subject property is now not habitable. Learned counsel further undertakes that whatever built up construction exists, the same shall not be used for human habitation till the disposal of the appeal.

E In view of the statement/undertaking, no further orders are called for in the contempt petition. It stands closed and the notice issued is discharged.”

F 3. The second Contempt Petition (Civil) No.1758 of 2017 was filed alleging that Deoki Devi had again raised construction on the very same land and was residing therein. Along with the contempt petition, photographs were filed which clearly show that a new house has been constructed. Just outside this fresh construction there is also a sign board which advertises the fact that airconditioned and non-airconditioned rooms were available. Deoki Devi filed reply. According to her, she and her family members are residing in some other property, which is in close proximity to the subject property and the advertisement for letting out rooms was in respect of that property. However, this fact is not reflected from the sign board, which does not make mention of any other property. The only other defence taken by Deoki Devi was that she had demolished the construction earlier raised in the year 2011 and had ceased to use the house in terms of the undertaking given to this Court. She submits that because the property was lying abandoned,

H

some bus operators had started parking their buses and some vagabonds started using the property for various activities. Even though she posted a guard there but due to the dilapidated nature of this property, anti-social elements were attracted to the same and, therefore, she had carried out some maintenance work. According to her, all that she has done is to maintain the property in a manner to show that the property is in use.

A  
B

4. The photographs filed depict a total different picture. What has been constructed is a fairly large house and when we compare it with the photographs filed in the earlier contempt petition in the year 2011, it is apparent that the structure now built is totally different from the structure, which was demolished in the year 2011. In case Deoki Devi felt that the property is going to waste, the proper course for her was to approach this Court either for modification of the earlier order of injunction or to seek fresh order in order to protect the property. She could not have taken the law in her own hands and totally violated the interim order of injunction granted by this Court. The photographs of the property clearly show that it was being put to commercial and residential use.

C  
D

5. The conduct of Deoki Devi is contemptuous. She had earlier disobeyed the injunction passed by this Court and after filing Contempt Petition No. 258 of 2010, had demolished the construction raised by her and had given a solemn undertaking to this Court that she would not raise any fresh construction nor would she use it for human habitation. Despite the earlier order and undertaking, she has not only raised the fresh construction but it is obvious that she has used it for human habitation. It seems to us that since Deoki Devi got off very lightly in the earlier contempt proceedings, she feels that she can take the law into her own hands. The reply filed by her virtually aggravates the contempt. According to her, she had not raised any construction in violation to the orders of this Court. This statement is obviously false and even her learned counsel could not enlighten us as to how the construction, evident from the photographs, which are not even denied, does not violate the orders of this Court. Not only that, with regard to the sign board outside the property informing the general public that airconditioned and non-airconditioned rooms are available for rent, the explanation given is totally false. We may also point out that no material has been placed on record to support the averments made by Deoki Devi.

E  
F  
G  
H

A 6. We have, therefore, no hesitation in coming to the conclusion that Deoki Devi has wilfully and knowingly disobeyed the interim order of this Court. Not only that, she has also violated her solemn undertaking given to this Court and the order passed by this Court in the earlier contempt proceedings. Therefore, she is guilty of civil contempt.

B 7. As far as quantum of punishment is concerned, we may point out that Deoki Devi, the contemnor has not even tendered an apology. All that she had said in her reply is that ‘.....if indeed her actions have resulted in violation of this Hon’ble Court’s orders in any manner, she is willing to tender an unconditional apology.....’ This is no apology in the eyes of law. There is no redeeming factor except the fact that she is a lady aged 63 years. She has not submitted any apology – qualified or unqualified. She has raised construction on the land in dispute in total violation of the orders of this Court.

C 8. As far as the quantum of punishment is concerned, Deoki Devi has obviously no respect for law of the land and she has wilfully disobeyed the orders passed by the highest Court of the land. She obviously does not care for the rule of law. In such an eventuality, we are bound to impose punishment in such a manner that it upholds the majesty of law. We may point out that in Civil Appeal No. 394 of 2009, while allowing the appeal of Mahant Lalita Sharanji, we have passed the following order:

D  
E  
F “13. The respondent, Deoki Devi is directed to remove the entire construction at her own cost and hand over vacant and peaceful possession of the land to the appellant within 30 days from today failing which the appellant can take assistance of the Court to take possession of the land and building in which event, Deoki Devi will not be entitled to the cost of the structure or any other damages.”

G 9. We hold Deoki Devi guilty of civil contempt and sentence her to simple imprisonment for 3 months and to pay a fine of Rs.2000 only. However, the sentence of imprisonment imposed upon her shall be suspended on the condition that she complies with the direction given in Civil Appeal No. 394 of 2009. Compliance with the orders passed in the Civil Appeal will absolve her from undergoing sentence of imprisonment. In case she fails to comply with the directions quoted hereinabove, then she will have to undergo the sentence of imprisonment imposed.

H

MAHANT LALITA SHARANJI v. DEOKI DEVI  
[DEEPAK GUPTA, J.]

481

10. List the matter on 02.04.2018 to ensure compliance of the order. A

Nidhi Jain

Matters further listed for compliance.