

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

CONTEMPT CASE No.3525 of 2024

ORDER:-

1. This Contempt Case has been filed complaining the alleged willful disobedience in implementing the order dated 04.03.2024 passed by this Court in W.P.No.10843 of 2023.
2. Heard learned counsel for the petitioner, and the learned counsel appearing for the respondents and perused the material available on record.
3. The petitioner herein is the resident of Doddanapudi Village, Kalla Mandal, West Godavari District. While so, respondent Nos. 12 to 14 therein have encroached upon a parcel of land measuring approximately Ac.0.94 cents in Sy.No.176 of Doddanapudi Village, Kalla Mandal, West Godavari District for installing an electrical transformer and poles which obstructs free flow of water of the irrigation channel/ canal posing a significant risk to human life in the vicinity due to its proximity to the canal. Subsequently the petitioner herein submitted a complaint on 08.12.2022, for which, the Assistant Executive Engineer, Irrigation, Akividu Section/ respondent No.11 therein issued a notice dated 26.12.2022 requesting the Gram

Panchayat to take appropriate steps for removal of the electrical transformer and other illegal encroachments and also to remove the drains discharging the waste water into the field canal/ channel. Despite receiving the notice dated 26.12.2022, no action has been taken by the authorities concerned. Therefore, the petitioner herein preferred W.P.No.10843 of 2023 before this Court.

4. Upon hearing both the parties, this Court passed a final order in W.P.No.10843 of 2023 dated 04.03.2024, the operative portion of the said order reads as follows:

“Having regard to the submissions made by the learned counsel for the petitioner, learned counsel for the respondents and on perusal of the record, it appears that the placement of electrical transformers and poles along the irrigation canal is impeding the natural flow of water and disrupting the distribution of water to the crop fields catering by the canal. Hence, this Court deems it appropriate to direct respondent Nos. 4 to 6 and respondent Nos. 10 to 13 to conduct joint survey and demarcate the subject land in the irrigation canal i.e., Ac.0.94 cents in Sy.No.176 of Doddanapudi Village, Kalla Mandal, West Godavari District as to whether any encroachments are made. The concerned respondents are directed to take

appropriate steps to remove the encroachments in accordance with law and offer an alternative land nearby. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.”

5. Learned counsel for the petitioner submits that, even though this Court passed an order directing the respondents to remove the encroachments and to offer an alternative land for erection of such transformer and electrical poles, the respondents have not complied with the orders of this Court, obviously for reasons best known to them, which amounts to contempt, as defined under Section 2(b) of the Contempt of Courts Act, 1971 and that the respondents are liable for punishment as per Section 12 of Contempt of Courts Act, 1971 and requested to punish them in accordance with law.

6. On the other hand, respondent No.1 filed counter affidavit, wherein, in paragraph Nos. 6 and 7, it is stated that, as directed by this Court in W.P.No.10843 of 2023, the respondents authorities have conducted a joint survey in respect of the subject land in the presence of the petitioner and adjacent land owners and identified that there is an electric transformer and three electrical pillars existing in the subject land. It is further stated that removal of the

electrical poles relates to technical wing of the electrical department, as such, respondent No.1 is no way concerned with the removal of the subject encroachments and in implementation of the orders of this Court. It is further stated that the respondent No.1 addressed a letter dated 24.10.2024 to all the respondent authorities requesting them to take appropriate steps for removal of the encroachments in accordance with law and also offer an alternative land for the subject purpose. He further prayed that, since there is no deliberate or intentional disobedience on the part of Respondent No.1, he tenders unconditional apology and requested this Court to close the contempt proceedings against him.

7. Respondent No.2 filed counter affidavit, wherein, in paragraph Nos. 5 and 6, it is reiterated that, as directed by this Court in W.P.No.10843 of 2023, the respondents authorities have conducted a joint survey in respect of the subject land in the presence of the petitioner and adjacent land owners and identified that there is an electric transformer and three electrical pillars existing in the subject land. It is further stated that removal of the electrical poles relates to technical wing of the electrical department, as such, respondent No.2 is also no way concerned with the removal of the subject

encroachments and in implementation of the orders of this Court. Therefore, respondent No.2 has addressed a letter dated 28.08.2024 to respondent No.5 requesting him to take appropriate action in accordance with the orders of this Court dated 04.03.2024. Pursuant to the letter dated 28.08.2024, respondent No.5 given reply informing that a suitable alternative site was finalized elsewhere for installation of new 100 KVA transformer and the same was installed in the proposed site and disconnected the electricity connection to the transformer in the disputed site. Further, it is stated that the new transformer is functioning successfully and also all electrical services on disputed 63 KVA transformer was diverted to newly erected 100 KVA transformer and the voltage profile to the subject area is satisfactory. In view of the same, it is stated that respondent No.2 complied with the orders of this Court and there is no violation or disobedience on his part. Hence, requested this Court to close the contempt proceedings initiated against him.

8. Respondent No.5 filed counter affidavit stating that, in compliance of the orders of this Court dated 03.04.2024, the APEPDCL authorities have removed the electrical transformer from the irrigation site adjacent to the irrigation canal and moved into

alternative location. It is further stated that the cement concrete pavement constructed for installing an electrical transformer has to be dismantled and the wastage has to be removed by the APEPDCL authorities in order to keep the irrigation site in its original standards to avoid further interruption to the free flow of water. For which, respondent No.5, addressed a letter dated 25.03.2025 to respondent No.7 requesting him to take necessary steps in that regard. As such, further action in compliance with the orders of this Court is pending with the APEPDCL authorities/ respondent Nos. 6 and 7 herein.

9. Respondent No.6 filed counter affidavit, wherein at paragraph No.9, it is stated that, against the orders dated 04.03.2024 in W.P.No.10843 of 2023, some third parties to the writ petitioners filed Writ Appeal vide W.A.No.675 of 2024, wherein, the Hon'ble Division Bench of this Court was pleased to pass the following order:

"It appears that the action of filling up of the irrigation canal and installation of electric transformer and poles was taken as an illegal act and in that regard, communication, dated 26.12.2022, has been addressed already to the Tahsildar, Kalla Mandal, West Godavari District, by the Assistant Executive Engineer, Irrigation

Section. Therefore, it appears that the installation of transformer was done unauthorizedly and therefore the directions issued by the learned single judge for its removal, in our opinion, was not unjustified.

Be that as it may, we cannot persuade ourselves to take a view other than the one expressed in the judgment and order impugned. However, we are of the opinion that since the transformer was installed for the benefit of local people residing in the said area, the need may still be subsisting. It is therefore ordered that respondent Nos. 13 to 15 shall find an alternative space for installation of the transformers so that the cause of the people residing in the said area would be served beneficial.”

10. It is further stated in the counter affidavit filed by respondent No.6 that, in compliance of the orders of this Court, the respondents have already conducted survey and shifted the transformer to an alternative site and installed new lines and charged the same. Therefore, the orders granted by this Court with regard to shifting of uncharged poles and transformer at irrigation channel is concerned to suitable place is completed, however, the existing transformer could not be removed due to protest from the public. Hence, the non

removal of uncharged poles and disconnected transformer is not deliberate or willful. It is further stated the petitioner herein filed the present contempt case with false allegations alleging that the respondents herein nothing was complied with the orders of this Court though Respondent Nos. 6 and 7 have promptly obeyed the orders of this Court and almost major work is completed and requested to close the contempt proceedings.

11. Respondent No.3 also filed counter affidavit reiterating the contentions made by respondent No. 5 in his counter affidavit.

12. When the matter is taken up for hearing, both the learned counsel submitted that in compliance of the orders of this Court, respondents have conducted survey and shifted the transformer and electrical poles to an alternative location, but already constructed pavements for existing old transformer was not removed due to public protest, but the same to be removed.

13. Having heard the submissions of the respective counsel and upon perusal of the material available on record, it appears that, in compliance of the order of this Court in W.P.No.10843 of 2023 dated 04.03.2024, respondents have conducted survey in the presence of

the petitioner and other adjacent land holders and shifted the transformer and electrical poles to an alternative location. As such, the orders of this Court are complied with by the respondents and no further orders are required to be passed in the present contempt case.

14. It is a settled principle of law that this Court while adjudicating upon a contempt petition shall not delve into adjudication upon the disputed facts since the same would lead to the Court transgressing its boundaries as enshrined under the Contempt of Courts Act, 1971, thereby, going beyond the judgment which has been alleged to be violated. The Court, while deciding upon the contempt petition, shall restrict itself to adjudicating upon the limited aspect which is whether there is a "wilful disobedience" by the party against whom contempt proceeding is being sought to be initiated. This Court while adjudicating upon a contempt petition shall not decide upon the disputed question of facts. The Court under Contempt of Courts Act, 1971 shall only adjudicate upon the fact whether there is a willful disobedience of any judgment/order passed by the Court.

15. Therefore, since the orders of this Court are complied with by the respondents by conducting subject survey and by shifting the transformer and electrical poles as alleged by the petitioner, the contempt case is liable to be closed.

16. In view of the entire facts and circumstances of the case, the Contempt Case is closed. There shall be no order as to costs.

17. Consequently, miscellaneous petitions pending, if any, in this contempt case shall stand closed.

JUSTICE VENKATESWARLU NIMMAGADDA

Date:24.10.2025

BSP / SP

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

CONTEMPT CASE No.3525 of 2024

Date: 24.10.2025

BSP/ SP