



2026:CGHC:12712

The date when the order is reserved	The date when the order is pronounced	The date when the order is uploaded on the website	
		Operative	Full
06.01.2026	17.03.2026	--	17.03.2026

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CONT No. 758 of 2022

- 1 - Sanjay Kumar S/o Tilak Ram Aged About 45 Years R/o Village Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)
- 2 - Ratthu Miri S/o Ghunu Aged About 55 Years R/o Village Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)
- 3 - Banshi Miri S/o Ghunu Aged About 50 Years R/o Village Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)
- 4 - Sanjay S/o Jogi Aged About 35 Years R/o Village Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)
- 5 - Son Sai S/o Sajrang Aged About 50 Years R/o Village Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)
- 6 - Man Sai S/o Sajrang Aged About 48 Years R/o Village Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)
- 7 - Rameshwar Miri S/o Khartan Aged About 61 Years R/o Village Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)
- 8 - Balram S/o Rupram Aged About 35 Years R/o Village Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)

... Petitioner(s)

versus

1 - Rajat Bansal Collector, District Balodabazar-Bhatapara (C.G.)

2 - Khamhan Lal Sori Sub Divisional Officer, Bilaigarh, District Balodabazar-Bhatapara (C.G.)

3 - Sushila Bai Yadav Sarpanch, Dharashiv, Police Station And Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)

---Respondents

For Petitioners : Mr. Yogesh Chandra, Advocate.

For Respective Respondents : Ms. Reena Singh and Mr. Prakant Sethi,
Advocates.

Hon'ble Smt. Justice Rajani Dubey

(C.A.V. Order)

1. The petitioners have filed this contempt petition due to willful disobedience of order dated 17.09.2021 passed in WPC No. 3775/2021 by the respondents/contemnors, whereby as an interim relief direction was issued not to forcefully demolish the house of the petitioner till the next date of hearing. The passing of the order dated 17.09.2021 was brought into the knowledge of the respondents/contemnors by way of representation dated 20.07.2022. However, despite the representation and the knowledge of passing of the interim order, the respondent No. 3 demolished the construction and started the construction of *Gothan*, thereby committed a deliberate violation of this Court's order.
2. Learned counsel for the petitioners would submit that the act of the respondents/contemnors squarely falls within the definition of civil contempt, being willful disobedience of the order dated 17.09.2021 (Annexure C-1) passed by this Court, attracting action under the Contempt of Courts Act, 1971 as well as Article 215 of the Constitution

of India.

3. After issuing notice to the respondents/contemnors, respondent No.2 has submitted its reply. Respondent No. 2 has taken very much care of passing of the interim order and also directed that no interference with regard to the demolition in the property of the petitioners be intervened, as such, no contempt is made out against the respondent No. 2. He further submits that since the final order has been passed by the SDO on 07.12.2021 in the case of the petitioners, as such, interim relief has rendered infructuous. Without prejudice to the above, respondent No. 2 submits that the final order has been passed on 07.12.2021 and in compliance of the interim major given to the petitioners, respondent No. 2 has directed the Additional Tahsildar, Bhatgaon and Gram Panchayat Dharasheel that no demolition would be done, therefore, respondent No. 2 has not done any willful disobedience of the order dated 17.09.2021 passed by this Court. He would further submit that after receiving a notice, he directed the concerned Patwari to submit its report regarding the demolition and in pursuance thereof, the Patwari has submitted its report stating therein that construction of *Gothan* work was not going on and no house has been demolished and the report of the Patwari clearly demonstrates that no construction after the order of this Court has been raised and no demolition was taken place causing no loss to the house of the petitioners, in these circumstances no case of contempt is made out against the respondent No. 2. Therefore, the contempt petition being devoid of merit, is liable to be dismissed.
4. Respondent No. 3 has also filed its reply stating therein that the

respondent No. 3 never intended to disobey the order of this Court or order of any authority. She further submits that after passing of the order dated 17.09.2021, the authorities concerned as well as the respondents were duly complying with the order of this Court till the order dated 07.12.2021 is passed by Sub-Divisional Officer (Revenue), Bilaigarh in Appeal No. 202107211200042-A/89 of 2020-21, whereby the S.D.O. has dismissed the appeal of the petitioners. After dismissal appeal of the petitioners, respondent No. 3 made a communication dated 10.02.2022 to the Chief Executive Officer, Janpad Panchayat, Bilaigarh for necessary proceedings in the matter. She would further submit that the instant contempt petition has been filed on 22.07.2022 after lapse of more than seven months after the dismissal of the appeal of the petitioners by the S.D.O., Bilaigarh and the same has been filed by suppressing the material facts of the case which shows that the petitioners had not come before the Hon'ble Court with clean hands and are trying to take the advantage of the contempt case under the garb of interim order of this Court. Learned counsel also submits that the respondent No. 3 being the village panchayat who is subordinate to the higher authorities is bound to obey the order/direction given to her within her jurisdiction. She has not done any such act which fall within the purview of contempt of order of this Court. In these circumstances, learned counsel submits that the petition being devoid of merit, is liable to be dismissed.

5. Learned counsel for the Petitioners has also filed rejoinder to the reply of the respondents/ contemnors, *inter alia* stating therein that though there

is interim order passed by this Court, but till date the construction has been continued on the subject land which is in the possession of the petitioners which is evident by the photographs (Annexure C-6), which forms part of his rejoinder. He also submits that there is no order of vacating the interim order and the same is still in subsistence and the same is pending consideration for adjudication, hence the interference made by the respondents shows their willful disobedience of this Court's order dated 17.09.2021. He also submits that in the reply of respondent No. 3, they have not made any reply to the effect that after this Hon'ble Court's order dated 17.09.2021, no demolition has been made and no construction has been raised over the subject land of the petitioners which substantiate the allegations of the petitioners. The conduct of the respondents squarely amounts to willful disobedience of the order of this Hon'ble Court, warranting appropriate action to uphold the majestic of law and sanctity of judicial order.

6. Heard learned counsel for the parties and perused the material available on record.
7. The petitioners filed this contempt petition for non-compliance of this Court's order dated 17.09.2021 passed in WPC No. 3775/2021. The relevant portion of the order dated 17.09.2021 reads as under:-

“ Learned counsel for the petitioners submits that the petitioners are in occupation of the part of land bearing Khasra No. 2008/008/1 & under the Pradhan Mantri Awas Yojana. They have been served with a notice Annexure P/1 dated 27.08.2021 to vacate the premises otherwise their house would be demolished. He submits that the land

bearing Khasra No. 2008/1 totally admeasures 40.55 hectares and a lot of land is still vacant wherein the cattle shed (gothan) can be constructed. Therefore the petitioners, who are settled on the part of the said land, should not be forcefully evicted from ther.

Learned State counsel submits that, as per instructions, presently no demolition is being carried out in respect of the house of the petitioners as the issue has been subject of challenge before the SDO and the SDO has called for the report of Patwari and the report has also been submitted. It is stated that the petitioners shall be heard and thereafter, the suitable order would be passed.

Let the said fact be placed on record.

Issue notice to the respondent No. 5 on payment of process

fee, as per rules.

List the case after six weeks.

In the meanwhile, till the application of the petitioners pending before the S.D.O. is decided, it is directed that no forceful demolition of the petitioner's house shall be carried out till the next date of hearing..”

8. Learned counsel for Respondent No. 2 filed a reply on 13.01.2023, annexing the order dated 07.12.2021 passed by the Sub-Divisional Officer (R), Bilaigarh as Annexure R-2/1. The said order clearly indicates that the learned S.D.O. passed it in compliance with the directions of this Court.
9. Annexure R-2/2 is a report dated 17.09.2022 of the Patwari showing that the construction work of the cattle shed (gauthan) was stopped and that no demolition work was carried out. The report also contains attached photographs.

10. The petitioners filed the present petition on 22.07.2022. Annexure R-2/1 shows that the learned S.D.O., Bilaigarh had passed an order on 07.12.2021. It is evident that this Court by order dated 17.09.2021 in W.P.C. No. 3775 of 2021, granted an interim direction restraining the demolition of the petitioners' house until the application pending before the S.D.O. was decided. The said application was decided on 07.12.2021 and the order clearly shows that the learned S.D.O. instructed the Revenue Officers accordingly.
11. For ready reference, the operative paragraphs of the order dated 17.09.2021 are reproduced below:-

"अतः अपीलार्थी द्वारा प्रस्तुत अपील प्रकरण में संलग्न सुसंगत दस्तावेजों मुख्य कार्यपालन जनपद पंचायत बिलाईगढ़ द्वारा दिये गये अभिमत एवं अन्य तथ्यों के आलोक में तथा माननीय उच्च न्यायालय द्वारा दिये गये स्थगन आदेश के अनुपालन में अपीलार्थीगण का अपील के आधार पर आंशिक रूप से स्वीकार की जाती है कि, माननीय उच्च न्यायालय के अग्रिम आदेश तक अतिरिक्त तहसीलदार भटगांव व ग्राम पंचायत धारासींव द्वारा चिन्हांकित अतिक्रमण कर निर्मित आवासों पर अतिक्रमण हटाने बाबत कोई कार्यवाही न कि जावे। अपील के शेष बिन्दुओं पर अपीलार्थीगण की अपील खारिज की जाती है। ग्राम पंचायत धारासींव एवं अतिरिक्त तहसीलदार भटगांव को आदेशित किया जाता है कि वे माननीय उच्च न्यायालय छत्तीसगढ़ बिलासपुर द्वारा पारित आदेश के अनुपालन में व छ.ग. पंचायत राज अधिनियम एवं छ.ग. भू राजस्व संहिता के सुसंगत प्रावधानों को ध्यान में रखते हुए अग्रिम आदेश तक आवश्यक कार्यवाही करना सुनिश्चित

करें अतः उपरोक्तानुसार आदेश पारित एवं घोषित किया जात है।
सभी संबंधित सूचित हो। बाद प्रकरण नस्तीबंद कर दाखिल
दफ्तर हो। "

12. The petitioners in their rejoinder have specifically stated that this Court, by its interim order dated 17.09.2021, had restrained the respondents from carrying out any forceful demolition of the petitioners' house. However, despite the clear and subsisting directions of this Court, construction activities have continued on the land which is in the possession of the petitioners. It has been further contended that such construction has been undertaken during the pendency of the present writ petition and in the face of the interim protection granted by this Court, thereby amounting to a clear disregard and violation of the said interim order. The petitioners have, therefore, alleged that the respondents, despite having full knowledge of the interim order passed by this Court, have proceeded with and continued construction on the subject land. The grievance of the petitioners is that such construction has been carried out in clear violation and disregard of the interim order of this Court.

13. It has been held by Hon'ble Apex Court in the matter of **Ouseph Mathai & Ors. vs. M. Abdul Khadir**¹ in para 13 as under:-

"13. It is settled position of law that stay granted by the court does not confer a right upon a party and it is granted always subject to the final result of the matter in the court and at the risks and costs of the party obtaining the stay. After the dismissal, of the lis, the party

1 (2002) 1 SCC 319

concerned is relegated to the position which existed prior to the filing of the petition in the court which had granted the stay."

14. It has been held by Hon'ble Apex Court in the matter of **Kalabharati Advertising vs Hemant Vimalnath Narichania & Ors**² in paras 15 & 17 as under:-

"15. No litigant can derive any benefit from the mere pendency of a case in a court of law, as the interim order always merges into the final order to be passed in the case and if the case is ultimately dismissed, the interim order stands nullified automatically...

The maxim actus curiae neminem gravabit, which means that the act of the court shall prejudice no one, becomes applicable in such a case. situation the court is under an obligation to undo the wrong done to a party by the act of the court. Thus, any undeserved or unfair advantage gained by a party invoking the jurisdiction of the court must be neutralised, as the institution of litigation cannot be permitted to confer any advantage on a party by the delayed action of the court.

17. In South Eastern Coalfields Ltd. v. State of M.P. this Court examined this issue in detail and held that no one shall suffer by an act of the court. The factor attracting the applicability of restitution is not the act of the court being wrongful or a mistake or error committed by the court; the test is whether an act of the party persuading the court to pass an order held at

² 2010 (9) SCC 437

the end as not sustainable, has resulted in one party gaining an advantage it would not have otherwise earned, or the other party suffering an impoverishment which it would not have suffered but for the order of the court and the act of such party. There is nothing wrong in the parties demanding to be placed in the same position in which they would have been had the court not intervened by its interim order, when at the end of the proceedings, the court pronounces its judicial verdict which does not match with and countenance its own interim verdict. The injury, if any, caused by the act of the court shall be undone and the gain which the party would have earned unless it was interdicted by the order of the court would be restored to or conferred on the party by suitably commanding the party liable to do so. Any opinion to the contrary would lead to unjust if not disastrous consequences. The aforesaid thus clearly indicates that a party in whose favour an interim order is passed cannot be permitted to continue to retain the benefit thereof consequent upon dismissal of the substantive proceedings. In effect the petitioner by relying upon aforesaid legal principle seeks the relief of declaration of being elected unopposed for Seat C. In the aforesaid factual backdrop and the legal position obtaining it cannot be said that the petitioner was infact "calling in question the election" of the fourth respondent in these proceedings so as to attract the bar under Article 243-O(b) of the Constitution of India."

15. It is evident from Annexure R-2/1 that the application of the petitioners was decided by the learned S.D.O. on 07.12.2021. The respondents, by way of affidavits have stated that the petitioners were not dispossessed from the subject land. The order passed by the learned S.D.O. further reflects that the application of the petitioners was partly allowed. In view of the material available on record, the petitioners have failed to establish that the respondents intentionally dispossessed them from their possession or that there has been any willful disobedience of the order of this Court. Moreover, the dispute relating to the subject land has already been adjudicated by the learned S.D.O. by order dated 07.12.2021, therefore, no case for initiating proceedings under the law of contempt is made out.
16. As a fall out and consequence of above analysis, the respondents/contemnors are hereby discharged. The contempt petition is dismissed and the contemp proceeding against respondents/contemnors is hereby dropped.
17. The petition, thus, stand disposed of.

Sd/-

(Rajani Dubey)
Judge