

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4202 OF 2008

M.L. GUPTA

APPELLANT(S)

VERSUS

MUNICIPAL CORPORATION, GWALIOR

RESPONDENT(S)

O R D E R

The appellant is the President of the Society known as 'Chandan Grah Nirman Samiti. This society applied to the Municipal Corporation, Gwalior for raising a high storey building. It is alleged that permission of High Rise Building Committee in this regard was obtained. We are not going into all the detailed facts as to whether the permission granted is valid or invalid because in this appeal we are only concerned with the question whether the appellant herein has violated the orders of the Division Bench of the High Court of Madhya Pradesh passed on 11.05.2000.

The Society got permission to raise a building of height of 30 meters on 04.11.1997 and started

construction. On 16.04.1998, the Municipal Corporation passed a resolution directing the Municipal Commissioner to get the construction work stopped. Thereafter, the Commissioner on 05.05.1998 suspended the building permission granted to the Society.

Aggrieved by the said order, the Society filed a writ petition numbering 761/1998 in the Gwalior Bench of the Madhya Pradesh High Court in which an interim order was passed on 26.06.1998 allowing the Society to recommence construction upto a height of 12 meters.

In the meantime, the Society filed a representation before the State Government under the relevant provisions of the Municipal Corporation Act, 1956 (hereinafter referred to as the "Act"). Recommendation in favour of the Society was made by the Commissioner but finally the State Government decided the representation against the appellant on 06.03.2000. It would be pertinent to mention that in the meantime writ petition No.761/1998 was withdrawn on 21.07.1999.

After the rejection of the representation of the Society by the State Government, the Society filed another writ petition being Writ Petition No.512/2000 against the order of the State Government dated 06.03.2000. Initially stay of demolition was granted but

finally the writ petition (No.512/2000) was disposed of on 27.04.2000 directing the State Government to take a fresh decision.

The Society, being aggrieved by this order of the Single Judge, filed LPA No.111/2000 before a Division Bench of the High Court and on 11.05.2000 in the said LPA an interim order was passed, relevant portion of which reads as follows:

"7. Having given our consideration to the respective submissions of the parties and subject to the ultimate decision of the case, for the present till further orders we direct as under:

i) Demolition of the building is stayed.

ii) The appellant will complete five storeys of the building including the ground floor since the four storeys may not possibly be used unless the ground floor is completed.

iii) The appellant will complete civil and related works, fire fighting works, water works, work on lifts, electrical works for use over and above the five storeys at its own risk and costs and subject to the ultimate decision of the case.

iv) The appellant shall stick to the sanctioned plan for the construction of the building and the fire officer shall be at liberty to inspect the building from time to time to see that fire safety requirements are duly made."

On 21.09.2001 a contempt petition was filed alleging that the respondent had violated the order of the Division Bench and committed contempt of the order.

It would be pertinent to mention that the LPA itself was dismissed on 18.12.2003.

Thereafter, the Society approached this Court in SLP(C) No.24637/2003 in which order of status quo was passed on 24.12.2003. On 01.10.2004, the SLP was disposed of with the direction that the representation made by the Society to the State Government would be decided on its own merits without being prejudiced by the observations made by the Single Judge of the High Court or by the Division Bench. A representation was filed and the State Government on 13.04.2005 directed that a completion certificate be issued subject to fulfillment of certain conditions.

It appears that the contempt petition, which was lying dormant for many years, was revived suddenly in 2007. On 08.10.2007, notice in the contempt petition was issued to the present appellant and vide impugned order dated 20.06.2008, Division Bench of the High Court held the appellant guilty of contempt in as much as he had violated the order dated 11.05.2000, quoted hereinabove. The appellant was sentenced to undergo six months imprisonment and to pay fine of Rs.51 lakhs, hence the present appeal.

Though, many issues have been raised by Mr. Choudhary, learned senior counsel, including the issue of limitation and the High Court imposing punishment beyond that provided under the Contempt of Courts Act, we are not inclined to go into those issues because in our considered view no contempt is made out. The directions of which contempt is alleged are directions no.3 and 4. According to the counsel for the respondents till date the appellant has not fitted the building with hydraulic fire fighting equipments in the building and therefore there is contempt of the directions. This is what weighed with the High Court and the High Court was swayed by the fact that according to it the building was an illegal structure.

We make it clear that we are not deciding the issue as to whether the building is illegal or legal. We are also not deciding the issue whether hydraulic fire fighting equipments are bound to be installed in the building as per the building bye-laws or not. The only issue we are deciding is whether there is contumacious disobedience of any directions of the High Court. We have already quoted the directions hereinabove and according to our reading direction nos.3 & 4 are not directions to the appellant to construct the building in a particular manner. In fact, it is a permission granted to him to raise civil and related works, fire fighting works, water

works, work on lifts, electrical works for use over and above the five storyes at its own risk and costs and subject to the ultimate decision of the case. According to us, these directions only meant that if the appellant raise any construction above five storyes then he was doing so at his own risk and if finally an order was passed against him then the same would be demolished and he would not able to claim any damages or equity on account of the fact that he had raised the structure. The High Court did not direct that the building should be raised in a particular manner.

Therefore, we are of the considered view that the High Court erred in holding the appellant guilty of contempt because there is no violation of any direction of the Court.

We, accordingly, allow the appeal and set aside the order of the High Court holding the appellant guilty of having committed contempt of court. The sentence is also set aside.

However, we would like to make it clear that it is for the Municipal Corporation to take appropriate action to ensure the safety of the occupants of the building is ensured as per the extant building bye-laws and the decision of this contempt petition does not either mean

that the appellant is bound to install the hydraulic fire fighting equipment or he is not liable to install the same. That should be decided by the competent authorities in accordance with Law.

.....J.
(DEEPAK GUPTA)

.....J.
(ANIRUDDHA BOSE)

New Delhi;
October 22, 2019

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).4202/2008

M.L.GUPTA

Appellant(s)

VERSUS

MUNICIPAL CORP., GWALIOR

Respondent(s)

(IA No.146141/2019 - EXEMPTION FROM FILING O.T., IA No.144487/2019
- PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 22-10-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Appellant(s)

Mr. Anoop George Chaudhari, Sr. Adv.
Mr. Pulkit Chandna, Adv.
Mr. Syed Mehdi Imam, AOR

For Respondent(s)

Mr. Harshvardhan Jha, Adv.
Mrs. Yugandhara Pawar Jha, Adv.
Ms. Mayuri Shukla, Adv.
Mr. Adarsh Upadhyay, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of.

(ARJUN BISHT)
COURT MASTER (SH)

(RENU KAPOOR)
BRANCH OFFICER

(signed order is placed on the file)