

[MANU/SC/0513/1993](#)

Equivalent Citation: 1993(2)BLJR889, 1993(1)Crimes1203(SC), JT1993(Suppl.)S.C.63, (1994)ILLJ360SC, 1993(2)PLJR68, 1993(2)SCALE127, (1993)3SCC19, (1993)2UPLBEC1507

IN THE SUPREME COURT OF INDIA

Criminal Miscellaneous Petition Nos. 3473-3474 of 1991 in W.P. (Crl.) No. 1366 of 1982

Decided On: 19.03.1993

Appellants: **Kameshwar Prasad Sharma 'Slave', President, Bandhua Mukti Morcha, Bihar**

Vs.

Respondent: **State of Bihar and Ors.**

Hon'ble

[Kuldip Singh](#) and [N. M. Kasliwal](#), JJ.

Judges/Coram:

Counsels:

[B.B. Singh](#), Adv

Subject: Constitution

Subject: Contempt of Court

Catch Words

Mentioned IN

Case

Note:

Constitution - contempt - petitioner initiated contempt proceedings against respondent alleging non compliance of direction of Court - respondent while filing counter-affidavit alleged misappropriation of money by petitioner - contempt proceedings are serious proceedings and must not be entertained in present facts and circumstances - however Court issued several directions

to respondent to be followed in implementation of it's earlier Order in respect of which contempt proceeding initiated.

JUDGMENT

Kuldip Singh, J.

1. This contempt petition has been filed by Kameshwar Prasad Sharma who was the petitioner in writ petition (Crl.) No. 1366/82 (the writ petition). It is alleged in the contempt petition that the respondents therein have disobeyed the orders of this Court issued in the above mentioned writ petition.

2. In the writ petition a direction was sought to the effect that 445 families of bonded labourers of village Banda in the State of Bihar be rehabilitated and settled over 22.25 acres of acquired land at Mauza Ghivai in the district of Samastipur. The writ petition was disposed of with the following observations:

We are also happy to note that the State of Bihar has undertaken to the Court in the affidavit filed by Mr. Girdhar Mishra, Joint Secretary, Department of Revenue & Land Reforms, Government of Bihar that these 445 families will be settled over the aforementioned land within a period of six months from today. In view of this decision taken and the undertaking given, which is hereby recorded, no relief needs to be given in so far as the settlement of these 445 families is concerned. But in view of the decision of the Government of Bihar recorded in the letter dated 17.7.1978 addressed by the Joint Secretary, Department of Revenue and Land Reforms to Miss Sushmi Dayal, Collector, Samastipur, namely that "out of the available public land, about 183 acres of available land may be allotted to the 445 families of Banda Village." We would like the State of Bihar to consider the question of implementation of this decision of the Government. We have no doubt that the Government will also proceed to consider favourably the question of implementation of this decision for the proper rehabilitation of these families in the same spirit in which the Government has decided to rehabilitate these 445 families on 22.25 acres of acquired land.

3. In the contempt petition Kameshwar Prasad Singh has alleged that the above quoted order of this Court was not being complied with by the State of Bihar and its officers. this Court on April 30, 1991 issued notice to the State of Bihar in the contempt petition. On behalf of the State Government Mr. Bhaskar Banerjee, Land Reforms Commissioner-cum-Secretary, Department of Revenue filed reply to the

contempt petition. It has been stated in the reply that the orders of this Court regarding construction of 445 houses have already been complied with. It is further stated therein that the petitioner has not approached this Court with clean hands. The State Government gave the construction-work to the society formed by the petitioner. Several complaints were received by the individual members of the 445 families that the petitioner was delaying the construction and had also overdrawn the money from the State Funds. The enquiry was instituted and a report was received on May 29, 1990. According to Mr. Banerjee the enquiry reveals that the petitioner had overdrawn several lacs of rupees and as such recovery proceedings for the overdrawn money were likely to be initiated. It is alleged that in order to pressurise the State Government, the present contempt petition has been filed by the petitioner. In a rejoinder filed by the petitioner he levelled counter allegations against Mr. Banerjee and other officers. The petitioner further reiterated his allegations to the effect that the orders of this Court in the writ petition were not being complied with. In view of the allegations and the counter allegations this Court passed the following order on July 30, 1991:

Ordinarily a petition of this type should not have been entertained. The petitioner has narrated a series of events which if found true require a serious view to be taken. The counter affidavit of the State alleges misappropriation of public money by the petitioner himself. Both aspects need investigation. We have considered it appropriate that the matter should be examined by a senior judicial officer of the State. We direct the District Judge, Samastipur, to look into the matter and submit a comprehensive report to this Court....

District Judge, Samastipur has submitted his report dated January 31, 1992. On the basis of the evidence recorded and discussed by the learned Judge he has given the following findings in the inquiry report:

1. There is no dispute that 445 houses (rather 446) have been fully constructed. The finding is based on local inspection in addition to the evidence on the record.
2. The land measuring 183 acres has not as yet been distributed amongst 445 families of the weaker section.
3. There is no material on the record to show that the affidavits filed by the officers of the State of Bihar on the basis of which this Court issued

directions in the writ petition, were false.

4. A sum of Rs. 21.25 lacs was received as advance by the cooperative society of which the petitioner, was the secretary for construction work. The rate of construction per twin-houses at Rs. 13,588/- as claimed by the State Government appears more reliable.

5. There are irregularities in dealing with the Government money as well as in the accounts of the cooperative society. The petitioner Kameshwar Sharma did not maintain proper accounts. The accounts submitted by the petitioner should be got audited from the Accountant General Bihar.

6. The petitioner Kameshwar Sharma purchased land by way of four sale deeds in village Roscera.

7. The petitioner constructed some unfinished houses which were subsequently demolished and 246 houses were constructed by the Public Works Department.

8. The houses have not been properly distributed. In some cases the son, father, brother, etc. are occupying different houses. The petitioner himself is in occupation of two twins (four houses) allotted in the name of two nephews, his brother's wife and himself. All the four houses have been amalgamated within one boundary wall.

9. Part of 183 acres of land to be distributed amongst the families, is under unauthorised occupation. Without properly ascertaining the possession over the lands, the distribution of the land is likely to create difficulties. The real position through proper measurement has to be ascertained in order to know how much land is available. The part of the land is under water of Karaha river and some part under the bandh. After proper survey and measurement the land available can be distributed amongst the families.

10. So far as claim of the petitioner in respect of the litigation and other expenses is concerned the learned District Judge stated as under:

As PW1 in his examination-in-chief (para 68) has stated that he has filed a statement of the amounts paid by him to fight the litigation in the Hon'ble Supreme Court in Writ Criminal Miscellaneous Petition No. 3473 and 3474 of 1991 separately on 5.12.91 in this Court. The said statement is a photocopy of the statement filed in the Hon'ble Supreme Court of India. A total sum of Rs. 12 lacs have been claimed as expenditure. Now in these two statements the petitioner has claimed Rs. 5,28,663.50 paise as costs for litigation from 9.9.75 to 12.7.91 in Criminal Misc. No. 3473/91 and Rs. 5,30,762.25 paise in Criminal Misc. No. 3474 of 1991 for the same period total of Rs. 10,59,425.75 paise. Thus in the photocopy of the statement he has claimed only Rs. 10,59,425.75 paise. Now in his cross-examination (para 100) A.P.W.No. 1 has stated that no resolution was passed for the claim which he has put forward as expenditure for litigation in the Hon'ble Supreme Court. Voluntarily he stated that he did not think it necessary. He has further stated that the Hon'ble Supreme Court gave him Rs. 10,000/- as costs which he had spent for construction of the houses. He has further stated that no account was given to the Society since the Society had no jurisdiction over it. The expenditure incurred by him for the litigation in the Hon'ble Supreme Court was collected in cooperation with 445 families. Whatever money he got from these beneficiaries he spent them for their benefit. He filed a copy of expenditure in the Hon'ble Supreme Court. He has further stated that there is a committee of **Mukti** and Punarbash for the beneficiaries. He collected Rs. 12 lacs from the beneficiaries from 1975 till today and spent the same. All the persons voluntarily paid the money to him. He wrote the receipts in a diary. Whenever money was required the same was collected. He could not say how much money was collected in the year 1991 and in any specific year. No bank account was opened for the aforesaid money. He has further stated that the diary has been filed in the Hon'ble Supreme Court and the statement has been filed in this Court. In that statement it is not written as to how much money was received and from whom. In this way the petitioner collected the money from the beneficiaries for fighting the litigations but he has not maintained any register for receipt of the money. The money was never deposited in the bank account so that proper checking can be made. Moreover no receipt was also produced for verification of the receipt of the money from the beneficiaries. It is also contended that the original statement has already

been submitted before the Hon'ble Supreme Court and only photocopy of the statement has been placed in this Court. In that view also no comments on the merit of the statement can be made.

4. We have carefully examined the detailed report submitted by the learned District Judge. We are of the view that no case for initiating contempt proceedings against State of Bihar or against any individual officer of the State of Bihar is made out by the petitioner. The contempt petition is thus liable to be dismissed.

5. this Court has been monitoring this case over a decade by issuing interim orders from time to time. We are satisfied that the Stole Government has substantially complied with the directions of this Court in the writ petition. Before closing these proceedings we issue following directions - which are in the nature of suggestions - for the consideration and compliance of the State Government:

(i) It is not disputed that the State Government has constructed 446 houses for rehabilitating the weaker section identified in the writ petition. The learned District Judge has pointed out in his report that there is no proper distribution of the houses to the deserving families. The State Government may entrust the distribution of the houses to a responsible officer or a committee appointed for this purpose. The State Government must ensure that the houses are allotted to the 445 families of weaker section for whom these houses were constructed under the directions of this Court.

(ii) So far as the allotment of 183 acres of land to the 445 families is concerned, we accept the case projected by the Stole Government before the learned District Judge. As suggested by the learned District Judge, the State Government may undertake survey and measurement of the land and thereafter the identified land may be offered to the families of the weaker sections. Since the Stole Government on its own offered to allot 183 acres of available land to the 445 families this Court noticed the offer in its order dated November 10, 1983 (reproduced above). We have no doubt that the Stole Government will make endeavour to execute the offer made by it and accepted by this Court while disposing of the writ petition.

(iii) The State Government may get the accounts submitted by the

petitioner Kameshwar Sharma regarding Rs. 21.25 lacs spent by him on the construction of houses, audited by the office of the Accountant General or any other competent authority. In case it is found that any part of the money has been misappropriated by the petitioner or any other person then the State Government shall be at liberty to take appropriate action in accordance with law.

(iv) The petitioner has claimed Rs. 10,59,425.75 as cost of the litigation. He has filed a statement of account before this Court. He also filed the same account before the Learned District Judge and wanted the finding from him in this respect. We have already reproduced the report of the learned District Judge in this respect. The learned District Judge has relied upon the statement of the petitioner to the effect that he collected Rs. 12 lacs from the beneficiaries from 1975 onward and has spent the same. We do not know how and in what manner the petitioner has been collecting money from the members of the weaker section in the guise of litigation expenses. In view of the report of the learned District Judge we hold that the claim of the petitioner regarding litigation expenses is wholly frivolous and we reject the same.

6. We, therefore, dismiss the contempt petition. We also close the monitoring of this case and direct the Registry not to entertain any miscellaneous petition or interlocutory application in these proceedings.