

HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

C.C.No.5438 of 2023 & I.A.Nos.1 & 2 of 2024 in W.P.No.9761 of 2023

COMMON ORDER:

The Contempt Case No.5438 of 2023 is filed by the petitioner in Writ Petition No.9761 of 2023 under Sections 10 to 12 of Contempt of Courts Act, 1971 against the respondents for willful disobedience of the order dated 11.05.2023 passed by this Court in Writ Petition No.9761 of 2023.

2. I.A.No.1 of 2024 in Writ Petition No.9761 of 2023 is filed by respondent No.1 in Writ Petition No.9761 of 2023 to condone the delay of 472 days in filing the Review application and I.A.No.2 of 2024 filed to review the order by permitting the Corporation to withdraw the written instructions submitted to the Court in the light of the fraudulent bills submitted by the petitioner and to submit the actual assessment of the work done by the petitioner.

3. Heard Smt.Gayathri, learned counsel for the petitioner in Contempt Case and respondent No.1/Writ Petitioner in Review Petitions and Sri Gurram Ramachandra Rao, learned Government Pleader appearing for the Review Petitioner in W.P.No.9761 of 2023.

4. Smt. Gayatri, learned counsel for the Writ Petitioner submitted that in Writ Petition No.9761 of 2023, the respondent authorities have admitted to pay the bill amount of the petitioner in due course, however, they have

not released the amount so far, as such, it amounts to willful disobedience of the orders passed by this Court in W.P.No.9761 of 2023. Hence, prayed to punish the respondents under Sections 10 to 12 of the Contempt of Courts Act, 1971.

5. On the other hand, learned Government Pleader for Review Petitioner submitted that the Writ Petitioner played fraud and submitted bills to the Corporation and based on the said bills, the Corporation sent incorrect instructions to the learned standing counsel, and the then learned standing counsel inadvertently submitted the incorrect written instructions to the Court. Relying on those instructions, this Court passed orders in Writ Petition No.9761 of 2023. The fraud played by the Writ Petitioner could only be discovered after verifying the records and comparing with the agreement conditions. He further submitted that the petitioner is entitled to only Rs.31,77,364.19/- and the Government accorded permission to pay the said bill amount to the petitioner and accordingly, the said amount was paid to the petitioner. Hence, prayed to permit the Corporation to withdraw the written instructions submitted to the Court and to submit the actual assessment of the work done by the petitioner.

6. In response, learned counsel for the Writ Petitioner submitted that the scope of review is very limited and it can be ordered only to rectify or correct the mistakes occurred on account of some mistake or error

apparent on the face of the record. The grounds that are raised by the Review Petitioner do not make out any mistake or error apparent on the face of the record and the same does not fall within the ambit of Rule 1 of Order XLVII of the Code of Civil Procedure.

7. Perused the record and considered the submissions made by both the learned counsel.

8. When the respondents had not released an amount of Rs.68,65,510/- to the works done by the petitioner, Writ Petition No.9761 of 2023 has been filed. This Court, *vide* order dated 11.05.2023, disposed of the Writ Petition directing the respondents to release the legally entitled amount to the petitioner, at the earliest and at any rate, within a period of six (6) weeks from the date of receipt of a copy of this order. When the respondent authorities had not complied the said order, the petitioner filed this Contempt Case *vide* C.C.No.5438 of 2023. During pendency of the said Contempt Case, Review Petitioner/Andhra Pradesh State Police Housing Corporation Limited filed Review I.A.Nos.1 and 2 of 2024 seeking to condone the delay in filing the Review and to withdraw the written instructions submitted to the Court in the light of fraudulent bills submitted by the Writ Petitioner and to submit assessment of the work done by the Writ Petitioner.

9. In the above background, before advertng to the contentions raised by both the learned counsel, this Court feels it appropriate to refer Rule 1

of Order XLVII of the Code of Civil Procedure, 1908, which reads as follows:

“6. Rule 1 of Order XLVII CPC deals with the application for review. It states that -

(1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed.

(c) by a decision on a reference from a Court of Small Causes

And who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.

Explanation.—The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.

10. Perusal of the provisions of Order XLVII Rule 1 of CPC, the scope of review is very limited and it can be ordered only on account of some mistake or error apparent on the face of the record.

11. It is the case of the respondents that due to fraudulent bills submitted by the petitioner, the Corporation has inadvertently placed wrong instructions to the learned standing counsel and basing on the said written instructions, this Court passed orders dated 11.05.2023 in Writ Petition No.9761 of 2023 directing the respondents to pay legally entitled amount to the petitioner. If the respondents are aggrieved by the said order, they are at liberty to challenge the same by way of an appeal, rather than by filing a review petition before this Court. Moreover, in the operative portion of the said order, this Court did not specify the amount to which the petitioner is legally entitled. Hence, there is neither error apparent on the face of the record, nor any sufficient reason that desires to review the order. The Review petitioner failed to make out any mistake or error apparent on the face of the record in the order under review and failed to bring the case within the parameters of Order XLVII of the Code of Civil Procedure justifying the Court to exercise its power under review. In the absence of any such error, no review can be made and the Review Petition is liable to be dismissed.

12. With regard to Contempt Case is concerned, this Court directed the respondents to pay the legally entitled amount to the petitioner, at the earliest and at any rate, within a period of six (6) weeks from the date of receipt of a copy of this order. Perusal of the Memo filed by the Social Welfare (Edu.II) Department *vide* Memo No.2185279/SW.EDU.II/2023

dated 04.12.2023 would indicate that the Government of Andhra Pradesh accorded permission to the AP State Police Housing Corporation for payment of pending bill amount of Rs.31,77,363.19/- and the same was paid to the Writ Petitioner. Learned counsel for the Review Petitioner contended that the said amount itself is the legally entitled amount and the Writ Petitioner has submitted fraudulent bills to the Corporation and the Corporation mistakenly sent instructions basing on the fraudulent bills and the said fraud was discovered after passing the order in Writ Petition.

13. While disposing of the Writ Petition, this Court recorded the contentions of the Writ Petitioner and the written instructions submitted by the respondents and directed the respondents to release the legally entitled amount to petitioner. It is settled law that Constitutional Courts can entertain writ petitions arising out of contractual matters, but only when there are no disputed questions of facts. If the bill amount is contested, the parties would be directed to approach a competent Civil Court for resolution, as the writ jurisdiction is not typically meant for resolving factual disputes that require detailed evidence and contract interpretation. Keeping the same in mind, this Court, while disposing of the Writ Petition, instead of specifying the amount, directed the respondent authorities to release the legally entitled amount to the petitioner. When specific amount was not mentioned by this Court in the order, the Writ Petitioner ought to have filed review or preferred an intra-Court appeal, but he did not do so.

14. When adjudicating a Contempt of Court case, a Court must primarily focus on the "operative portion" of the order or judgment, which is the part that directs specific actions. This means the Court should not go beyond the explicit directions given in the order or judgment and should not reopen decided issues or consider equitable pleas. The Court's focus should be on whether there has been a willful disobedience of the explicit and plainly self-evident directions in the order or judgment.

15. In view of the above, as stated supra, this Court did not specify the amount to be paid by the respondents to the Writ Petitioner. In the absence of the same, the Writ Petitioner cannot say that the authorities did not pay the amount as mentioned in Writ Petition. If at all the petitioner has any grievance regarding balance amount, he has to approach competent Civil Court.

16. In view of the foregoing discussion and taking the submissions of learned counsel for the parties into consideration, since the Review Petitioner has paid an amount of Rs.31,77,363.19/- to the Writ Petitioner towards the works done by itself, the Contempt Case is closed. However, the petitioner is at liberty to approach the competent forum, if he has grievance with regard to the balance bill amount.

17. In the case of ***M.Jagadeeswara Rao and others v. the Divisional Forest Officer, Vizianagaram District***, the Hon'ble Division Bench of this Court, held as follows:

“In view of the above legal position, it deserves to be reiterated that the provisions of the Limitation Act are not applicable to a petition filed for review of an order passed by the High Court in exercise of power under Article 226 of the Constitution. We are not suggesting that in each and every case, the High Court is bound to entertain the application for review ignoring unexplained delay of any length, but are of the considered view that the application filed for review of order passed under Article 226 of the Constitution of India cannot be decided by invoking the provisions of Section 5 of the Act.”

18. In view of the settled law that there would be no time limit for seeking review, I.A.No.1 of 2024 is closed, since unnecessary.

19. Since the relief sought in the review petition does not fall within the ambit of the limited scope of review, since what was sought is to withdraw the written instructions and further in view of the observations made while dealing with the Contempt Case, this Review Petition is dismissed.

20. In the result, the Contempt Case No.5438 of 2023 is closed. However, the petitioner is at liberty to approach the competent forum, if he has grievance with regard to the balance bill amount. I.A.No.1 of 2024 in Writ Petition No.9761 of 2023 is closed. I.A.No.2 of 2024 in Writ Petition No.9761 of 2023 (Review Petition) is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

31.07.2025

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THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

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