

Mohammad Idris and Another

Vs

Rustam Jehangir Babuji and Others

Special Leave Petition (Civil) No. 9395 of 1984

(O. Chinnappa Reddy, Ranganath Misra JJ)

22.08.1984

ORDER

O. CHINNAPPA REDDY, J. -

1. On an allegation that the petitioners had acted in breach of an undertaking given by them in Suit 2308 of 1983 in the High Court of Bombay, a notice was issued to them to show cause why then should not be committed for contempt of court. Cause was sought to be shown. A learned Single Judge of the High Court recorded the following finding :

In my judgment the action of defendants 4 and 6 clearly shows utter contempt for the orders of the court and undertaking given by them. I have no hesitation in holding that these defendants have committed gross contempt of court... in my judgment, there is no circumstance whatsoever to take any lenient view of the gross contempt committed by defendant 4 and 6 and both of them are liable to be punished under the provisions of Contempt of Courts Act.

2. On those findings the learned Single Judge committed each of the two petitioners to the civil jail for the period of one month. Against the order of the learned Single Judge, the petitioners preferred an appeal to the Division Bench of the High Court under Section 19(1) of the Contempt of Courts Act, 1971. The appeal was dismissed by the Division Bench and the present special leave petition has been filed against the judgment of the Division Bench. Shri Ramesh N. Keshwani, learned counsel for the petitioners submits that though the petition for special leave to appeal has been filed under Article 136 of the Constitution, the petitioners have, in law, an appeal as of right under Section 19(1) of the Contempt of Courts Act. The submission has only to be stated to be rejected as totally lacking in substance. Section 19(1) of the Contempt of Courts Act is as follows :

An appeal shall lie as of right from any order or decision of High Court in exercise of its jurisdiction to punish for contempt -

(a) where the order or decision is that of a Single Judge, to a Bench of not less than two Judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court :

Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union Territory, such appeal shall lie to the Supreme Court.

3. If the order of committal for contempt of court is made by a Single Judge of the High Court, there

is one statutory right of appeal to a Division Bench of not less than two Judges of the Court. If the order of committal for contempt of court is made by a Bench, an appeal lies as of right to the Supreme Court. Where an appeal is filed against the order of the learned Single Judge to a Division Bench, the statutory right of appeal gets exhausted and there is no further right of appeal to the Supreme Court. Shri Keshwani cited to us Purushotam Dass Goel v. B. S. Dhillon (AIR 1978 SC 1014 : (1978) 2 SCC 370 : 1978 SCC (Cri) 195 : (1978) 3 SCR 510). The decision is entirely irrelevant.

4. On merits, the learned counsel submitted that the undertaking given was not in respect of the property concerned and that in any case the learned Single Judge was not justified in giving certain directions in addition to punishing the petitioners for contempt of court. We find no substance in the submissions made by the learned counsel. There was a clear breach of the undertaking given by the petitioners and we are of the opinion that the Single Judge was quite right in giving appropriate directions to close the breach. The special leave petition is, therefore, dismissed.

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