

CP No.D-202 of 1961

Direction

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laws and the absence of any proceedings saved under Section 2(2) of the Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975, the authorities are no longer in a position to determine the status of the property or issue a Permanent Transfer Deed (PTD). He, therefore, prays for dismissal of the application.

We have heard learned counsel for the parties and perused the available record.

It appears that, following disposal of the main petition in 1962, contempt proceedings were initiated after a considerable lapse of time and were disposed of vide order dated 17.12.2015. For ready reference, the operative portion of the said order is reproduced as under:

“Para-wise comments already filed on behalf respondent Nos. 1 to 4, in which it is stated that ‘Further office record reveals that in Para-wise comments already filed on behalf of respondent compliance order passed by Hon’ble High Court of Sindh on 25.10.1962. Provincial Transfer Order (PTO) No. 00042 dated 11.10.1962, was issued in favour of the petitioner Sqdr Idr J.M. Zaidi in respect of property No. V-B 118-PR-2/49 situated at Victoria Road, known as Regal Mansion Karachi Tenant No. G/6-1/2(2/2 B & 2/2 A) (Annexure-III). After issuance of P.T.O, the petitioner never attended to this department and nor paid relevant dues i.e. Rental Dues and Settlement Fees etc, in this regard, therefore, the case of issuance of Final Transfer Order was not finalized and now the pleader of the petitioner appeared after more than half century.

In view of the above petitioner is directed to approach to the respondent and respondent after giving opportunities to the petitioner to decide the case in terms of the order passed by this Court in Writ Petition No. 202 of 1961 on 17.9.1962. Application is disposed of.”

A perusal of the aforesaid order reveals that the Settlement Authorities had reported issuance of Provincial Transfer Order No.00042 dated 11.10.1962 in favour of the petitioner. However, the process for issuance of the final transfer order remained incomplete on account of the petitioner’s failure to approach the concerned department and fulfil the requisite formalities, including payment of outstanding dues and settlement fees. The subsequent order dated 17.12.2015 required the petitioner to approach the respondents, who were then to afford him an opportunity of hearing and decide the matter in accordance with the earlier directions of this Court.

Significantly, nothing has been brought on record to satisfactorily establish that the petitioner diligently pursued the

matter before the competent authorities in compliance with the aforesaid order or that the respondents, despite being approached and afforded an opportunity to act, deliberately refused to comply with any specific direction of this Court. The prolonged inaction on the part of the petitioner, coupled with the intervening statutory changes, cannot, in the absence of clear evidence of intentional defiance, furnish a sufficient basis for invoking the contempt jurisdiction of this Court.

It is well settled that contempt proceedings are not intended to serve as a substitute for ordinary legal remedies or as a means of determining disputed questions concerning title, entitlement or the continuing competence of statutory authorities. The exercise of contempt jurisdiction requires a clear and subsisting judicial command and proof of wilful and deliberate disobedience thereof. Mere non-implementation of an earlier order, without establishing such deliberate disobedience, does not by itself warrant proceedings for contempt.

In the present case, the material available on record does not establish wilful or deliberate disobedience of the orders dated 17.09.1962 and 17.12.2015 by the respondents/alleged contemnors. Consequently, no case for proceeding against them in contempt is made out.

Accordingly, CMA No.22730/2026 is dismissed.

2. Through CMA No.3272/2025, the petitioner seeks restoration of the earlier contempt application bearing CMA No.17631/2024, which was dismissed for non-prosecution vide order dated 20.01.2025. Since the petitioner has subsequently instituted the present contempt application concerning the alleged non-compliance with the earlier orders of this Court, which has been considered and dismissed through this order, no useful purpose would be served by restoring the previous contempt proceedings.

Accordingly, CMA No.3272/2025 is also dismissed as having become infructuous.

JUDGE
HEAD OF CONST. BENCHES

JUDGE

Ayaz Gul