

Court No. - 1

Case :- WRIT - C No. - 7014 of 2020

Petitioner :- Darpan Sahu

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Anupam Laloriya

Counsel for Respondent :- C.S.C.,Habib Ahmad,Tarun Varma

Hon'ble Ramesh Sinha,J.

Hon'ble Ajit Kumar,J.

1. Heard Sri Sudeep Harkauli, learned Advocate, holding brief of Sri Anupam Laloriya, learned counsel for the petitioner, Sri Habib Ahmad, learned counsel appearing for the respondent Bank, Sri M.C. Chaturvedi, learned Additional Advocate General assisted by Sri D.K. Tiwari, learned Additional Chief Standing Counsel and Sri Neeraj Tripathi, learned Additional Advocate General assisted by Sri S.N. Shukla, learned Standing Counsel for the State.
2. This petition raises question regarding the legality of the recovery proceedings and in that regard we have already passed an order on 05.03.2020 restraining the Tehsildar from pursuing the recovery proceedings.
3. Today, learned counsel for the respondent-Bank has sought further time to have instructions in the matter.
4. However, while extending interim order, we are also of the opinion that due to serious threat presently to the society in the country due to pandemic disease of Corona Virus(COVID-19), it has become necessary to issue directions to the State Government to issue necessary circulars/directives to the various authorities including the District Magistrates of every district of the State and other Government Agencies and authorities not to take coercive measures or any exercise against any individual or body of

individuals which may force them to approach the Courts for legal remedies and also to avoid any public gathering pursuant to any such proceedings like auction etc. It has become necessary in the interest of public at large and in the face of the fact that the disease is quite fatal one and may result in its third stage at any time in the country. If still we remain oblivious to the fatal effect of the COVID-19, it would result into a panic situation in the society as while people should be more concerned of health issues will be unnecessarily forced to face litigation in the Courts. We may take notice of the fact that the Ministry of Health, Government of India has issued advisory of social distancing measure in view of COVID-19 disease which runs as under:

Advisory on Social Distancing Measure in view of spread of COVID-19 disease

Social distancing is a non-pharmaceutical infection prevention and control intervention implemented to avoid/decrease contact between those who are infected with a disease causing pathogen and those who are not, so as to stop or slow down the rate and extent of disease transmission in a community. This eventually leads to decrease in spread, morbidity and mortality due to the disease.

In addition to the proposed interventions, the State/UT Governments may prescribe such other measures as they consider necessary.

All these proposed interventions shall be in force till 31st of March, 2020. They will be reviewed as per the evolving situation.

The following interventions are proposed:

- 1. Closure of all educational establishments (schools, universities etc), gyms, museums, cultural and social centres, swimming pools and theatres. Students should be advised to stay at home. Online education to be promoted.*
- 2. Possibility of postponing exams may be explored. Ongoing exams to be conducted only after ensuring physical distance of one meter amongst students.*
- 3. Encourage private sector organizations/employers to allow employees to work from home wherever feasible.*
- 4. Meetings, as far as feasible, shall be done through video conferences. Minimize or reschedule meetings involving large number of people unless necessary.*
- 5. Restaurants to ensure handwashing protocol and proper cleanliness of frequently touched surfaces. Ensure physical distancing (minimum 1metre) between tables; encourage open air seating where practical with*

adequate distancing.

6. Keep already planned weddings to a limited gathering, postpone all non-essential social and cultural gatherings.

7. Local authorities to have a dialogue with organizers of sporting events and competitions involving large gatherings and they may be advised to postpone such events.

8. Local authorities to have a dialogue with opinion leaders and religious leaders to regulate mass gatherings and should ensure no overcrowding/at least one metre distance between people.

9. Local authorities to have meeting with traders associations and other stakeholders to regulate hours, exhibit Do's and Don'ts and take up a communication drive in market places like sabzi mandi, anaj mandi, bus depots, railway stations, post-offices etc., where essential services are provided.

10. All commercial activities must keep a distance of one meter between customers. Measures to reduce peak hour crowding in markets.

11. Non-essential travel should be avoided. Buses, Trains and aeroplanes to maximize social distancing in public transport besides ensuring regular and proper disinfection of surfaces.

12. Hospitals to follow necessary protocol related with COVID-19 management as prescribed and restrict family/friends/children visiting patients in hospitals.

13. Hygiene and physical distancing has to be maintained. Shaking hands and hugging as a matter of greeting to be avoided.

14. Special protective measures for delivery men/ women working in online ordering services.

15. Keep communities informed consistently and constantly.

Ministry of Health & Family Welfare

5. Besides above, Supreme Court of India has also issued notification for hearing of urgent matters only vide notification dated 14.3.2020, which is reproduced as under:

SUPREME COURT OF INDIA

(Admn. General Branch)

F. No. 212/MISC/PF/2020/SCA(G)

Date: 14.03.2020

CIRCULAR

In view of the advisory issued by the Government of India cautioning against mass gathering(s), to avoid the spread of Novel Coronavirus (COVID-19) infection and to avoid gathering which are considered unsafe, following precautionary measures are being put in place:

1. Non-essential visits to the Supreme Court premises are discouraged and accordingly the entry of casual visitors shall remain restricted until further orders;

2. All cafeterias, including the Departmental Canteen, are being advised to remain closed until further orders;

3. *The Guided Tour of the Supreme Court shall remain suspended & Supreme Court Museum shall remain closed to visitors, both until further orders;*
4. *All licensed vendors are being asked to compulsorily stock alcohol-based sanitizer(s) with dispenser(s), for use by customers as and when required;*
5. *All common areas including restrooms, corridors, staircases, etc. shall be sanitized after 6.00 p.m. and hence stakeholders are requested to vacate their respective offices/establishments and exit the premises preferably by 5.30 pm ;*
6. *All stakeholders who may have a travel history to the affected areas/countries, as may be notified from time to time by the Government(s), or who may have symptoms of fever, sore throat, cough, runny nose or breathing difficulty, are advised to self-res train themselves from presently visiting the Supreme Court premises;*
7. *All entrants to the Supreme Court premises may be required to subject themselves to thermal-screening and persons detected with high body temperature would be denied entry and further, may be subject to the SOP prescribed by the Government of India, Ministry of Health from time to time; in this regard, all concerned may note that the Government of NCT of Delhi has already invoked the relevant provisions of the Epidemic Diseases Act, 1897 and notified **The Delhi Epidemic Diseases, COVID-19 Regulations, 2020** thereunder vide No. F. 51/DGHS/PH-IV/COVID-019/202-215 dated 12.03.2020; **(copy enclosed)***
8. *Lawyers and litigants from across the country who would presently like to avoid travel or a visit to the Supreme Court of India, may write to the Registry by email to **office.regj1@sci.nic.in**, apprising such fact and details of their case(s) with request that their matter(s) may not be listed until the aforesaid restrictions remain in force;*
9. *All entrants, including lawyers/litigants/clerks entering Courts, would be advised not to crowd at any spot and to exit the premises as soon as their official business has ended, thereby helping themselves and others remain safe;*
10. *All concerned may refer to the aforesaid Regulations, more particularly on ‘**screening**’ and ‘**dealing with suspect and symptomatic cases**’, and also refer to **Guidelines for ‘Home Quarantine**’, **Guidelines for ‘Use of masks by public**’ and the ‘**Do’s and Don’ts**’ issued by the Ministry of Health and Family Welfare, Govt. of India, and co-operate in ensuring compliance thereof. **(Copies enclosed)***

This issues with the approval of the Competent Authority.

*Sd/-
(Dr. Sushil Kr. Sharma)
Assistant Registrar (AG)*

Encl. As above

6. The Chief Justice of Allahabad High Court has also issued an order which is reproduced as under:

ORDER

Seen the recommendations made by the Committees constituted for prevention and remedial measures for combating the impending threat of CoronaVirus (COVID-19). The resolutions undertaken by the Committees are approved in following terms:-

- 1. Till further orders, only urgent matters would be taken by the Court. The lawyers having urgent cases alone may appear before the Court to avoid crowding in the Courts. In case, any lawyer or the client is not present, the matter would be rotated with the same caption and no adverse order owing to absence of the Advocate or the client would be passed. If the presence of the party has been directed, the matter may also be rotated with the same caption to other date. No adverse order would be passed due to absence of the party.*
- 2. That only employees and Advocates and such clerks will be granted entry in the premises of the High Court who shall be possessing valid gate passes.*
- 3. That no gate pass will be issued to the litigants and visitors by the Gate Pass Section. Further, no litigants will be permitted entry through Gate No.3-A by showing Aadhar Card, etc.*
- 4. That the Advocates will advise their clients not to visit the High Court unless their presence is directed by the Court or is unavoidable.*
- 5. That Courts shall not insist for personal presence of parties unless it is unavoidable. Further, the personal presence which has already been fixed are deferred.*
- 6. That all the mediation proceedings shall remain suspended. The proceedings in which the date is fixed shall be given next date.*
- 7. That no Adverse Order shall be passed by the Courts in case Advocate of either party is not present.*
- 8. That the Advocates' Canteen as well as Bar Association meeting halls shall remain closed till further orders. However, there cleaning and sanitizing shall be ensured on daily basis.*
- 9. That no vendor shall be permitted to bring any beverages and food items inside the Court premises till further orders.*
- 10. That the Chief Medical Officer be requested to ensure that Doctors / Medical Personnel in adequate number are deployed on each entry point along with Thermal Imaging Devices to ensure that no person (Employee / Advocate / Clerk etc.) having fever / symptoms of Corona Virus enters in the High Court. If any such person is found, he / she be denied entry in the High Court and follow up action for his treatment to be taken.*
- 11. That the State Government be requested to establish a Laboratory at Allahabad for conducting pathological test for Corona Virus.*
- 12. That the Hon'ble Judges, employees, Advocates and clerks will ensure leaving the High Court premises by 05:00 pm.*
- 13. That all the Members of the Registry and each and every employee of all Cadres (Class-I, II, III & IV) working in High Court, Allahabad and Lucknow Bench will intimate the High Court immediately -*
 - If he / she feels that symptoms of Corona Virus are present in him / her.*
 - If symptoms of Corona Virus manifests / appears in any of his / her family member(s).*
 - If any guest / visitor visits his / her residence from any of the Country affected by Corona Virus.*
 - If he / she has visited any of the Country affected by Corona Virus in*

last 15 days.

Such employees will be required to furnish information on the above mentioned point(s) immediately, failure of which would entail Disciplinary Proceedings against the concerned.

14. That steps be taken for ensuring that the Driver, Jamadar and Shadow / Gunner attached with the Hon'ble Judge are scanned on daily basis for the Corona Virus.

15. That only three gates be earmarked for entry in the High Court premises at Allahabad.

16. That the Hon'ble Judges be requested to carry their personal belongings (Spectacles, Mobile Phone etc.) themselves and not to hand over the same to their Personal Staff.

17. That the Museum of the High Court shall remain closed for the visitors until further orders.

18. Necessary directions earlier issued with regard to combating impending threat of Corona Virus (COVID-19) shall also be applicable. Immediate steps be taken to execute the resolution aforesaid.

*Sd/-
CHIEF JUSTICE
16.3.2020*

7. Information and Public Communication Department, U.P. has also issued advisory *per* resolution of the Council of Ministers under the Chairmanship of the Chief Minister on 17th March, 2020, of which the English translation is as under:-

“In the meeting presided over by the Chief Minister, the Council of the Ministers has taken decision to contain the spreading of the pandemic coronavirus. The Chief Minister has appealed to the people of the State to distance themselves from the crowded places. The State Government has also taken decision to close down all educational institutions till 2nd April, 2020 and all type of examinations including competent examination have also been suspended till 2nd April, 2020. The Chief Minister has directed to administer free health care to the coronavirus infected people as the expenses will be borne by the State Government and employees who are on leave due to

pandemic, their wages will not be deducted. The Chief Minister has issued directives strictly to ensure compliance of the advisory issued by the Union of India. The State Government has also taken decision to close down the tourist places and Museum till 31st March, 2020, however, during this period the sanitization work be continued to be carried out at such places. The Cinema Hall and Multiplex have also been directed to be closed and public meetings have also put in abeyance till 2nd April, 2020.

The Chief Minister has also constituted a Committee with Agricultural Minister and Labour Minister under the chairmanship of the Finance Minister to submit a report regarding payment to the daily wagers so as to ensure that they are adequately paid for their survival and the Government shall ensure that the labourer working under the Government agency be paid their wages through RTGS. The Committee has been directed to submit the report within three days. The Chief Minister has also issued directives to all the District Magistrates to aware the people about the pandemic at religious places by initiating talks with religious heads. Chief Minister has also been directed to make all those awared about the disease, who are going to fair etc. and also Nagar Panchayat and Gram Panchayat Officers had been directed to ensure sanitization. Chief Minister has also directed that private sector and government sector attendance through bio matrix are exempted and at the same time directives have also been issued that the employees should be encouraged to work from home and during this period their salary shall be ensured.”

8. In view of the above we cannot remain oblivious of the impending threat of fatal consequences of COVID-19.
9. Today, there is an extraordinary situation in the country due to pandemic Corona Virus and therefore, it calls for an extraordinary measure to be taken to contain COVID-19. It is a situation where '**self quarantine**' should be encouraged amongst people in the society in particular and the country in general.
10. Accordingly in our considered opinion all the concerned competent authorities both administrative and non-administrative under the State Government be issued directions restraining them from taking any coercive measures against any person or body of persons in the society so as to force him/them to approach the Court for the redressal of grievance and accordingly we issue following directions:
 - a. All the recovery proceedings at the end of the district administration, financial institutions and other administrative bodies/authorities/agencies and otherwise at the end of the instrumentalities of the State shall be deferred for a period of two weeks i.e. till 6.4.2020.
 - b. All the auction proceedings, if any pending or initiated in the meanwhile, shall remain deferred for a period of two weeks i.e. till 6.4.2020.
 - c. The District Magistrates and the Administrative Authorities are also restrained from issuing any directions for presence of any person or persons in connection with any pending or any other proceeding for a period of two weeks i.e. till 6.4.2020.
 - d. No demolition exercise shall be carried out at the instance of District Administration or any authorities

under the State Government/local bodies for a period of two weeks i.e. till 6.4.2020.

e. No eviction or dispossession exercise against anyone be undertaken for a period of two weeks i.e. till 6.4.2020.

11. Let a copy of this order be immediately sent to the Registrar General today itself who shall forward the same to the Chief Secretary of Uttar Pradesh immediately to ensure its compliance by issuing necessary directions/circulars to all the concerned authorities in the matter throughout the State within 48 hours.

12. A copy of this order shall also be sent to the learned Advocate General for necessary compliance, today itself.

13. Put up on 6.4.2020.

(Ajit Kumar, J.) (Ramesh Sinha, J.)

Order Date :- 18.3.2020

Deepika