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Cont.P.No.304 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN  
AND  
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

**Contempt Petition No.304 of 2024**

P.T.Dhinakar

.. Petitioner

Vs.

K.Ashokumar

.. Respondent

**Prayer:** Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for wilful disobedience of the order dated 17.04.2023 made in CMA No.2716 of 2022 passed by this Court.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.R.Srinivasan, Senior Counsel  
for Mr.J.Chandran Sundar

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**ORDER**

(Order of the Court was made by **R.SUBRAMANIAN,J.**)

Complaining that the order of this Court made in C.M.A.Nos.2716 to 2719 of 2022 dated 17.04.2023 has been disobeyed, the petitioner has come up with this Contempt Petition.



2. This is an extraordinary case, in which the Division Bench of this

Court chose to issue the following directions, while dealing with the Civil Miscellaneous Appeals, which arose out of orders passed under Order XXXIX Rule 1 and 2 of CPC,

*“15. In the result,*

*(i) CMA Nos.2716 to 2719 of 2022 shall stand allowed and the impugned common order passed by learned Principal District Judge, Nagapattinam, in I.A.Nos.6, 7, 4 and 5 of 2022 in C.O.S.No.3 of 2022, dated 18.11.2022, shall stand set aside and the said I.A.Nos.6, 7, 4 and 5 of 2022 in C.O.S.No.3 of 2022, dated 18.11.2022 shall stand dismissed;*

*(ii) The respondent is directed to handover the possession of the theatre/the suit scheduled property, to the appellant, within a week's time, from the date of receipt of a copy of this judgment;*

*(iii) The respondent shall pay the cost of Rs.1,00,000/- (Rupees One lakh only) as costs to the appellant;*

*(iv) We direct the trial court to take up the suit and dispose of the same in accordance with law, within a period of three months from the*



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*date of receipt of a copy of this judgment.*

*(v) CMP Nos.21213, 21217, 21212, and 21211 of 2022 are closed.”*

3. Finding that the extension of lease deed was fraudulent and the District Court has gone overboard in granting the injunction as prayed for. This Court had rejected the contentions of the learned counsel for to the respondent in the following lines,

*“14. We are unable to accept the said arguments for the following reasons:*

*(a) The lease deed dated 22.09.2018 was executed for a period of four years, and the daily rent of the theatre fixed at Rs.3,600/-. The respondent was also honouring the terms and conditions of the lease agreement and has been depositing the daily rent in bank. The bank statement produced before us issued by the City Union Bank, Nagapattinam Branch, clearly shows that the respondent has been paying Rs.3,600/- towards daily rent. When in the year 2018, the respondent was paying the daily rent of Rs.3,600/-, it is not known how it can be as as low as Rs.1,000/- in the year 2022.*

*(b) Secondly, regarding the subsequent lease*



*renewal agreement dated 21.05.2022, it has been demonstrated before us that the appellant was in Singapore between 16.05.2022 and 22.05.2022. Therefore, it is clear that the document dated 21.05.2022 is a forged one. A perusal of the passport placed before us, marked as Ex.R-1 before the trial court, clearly falsifies the case of the respondent. Even for the naked eye, the difference in signatures of the appellant in the forged lease/renewal agreements is very much visible.*

*(c) Moreover, when learned Trial Judge has rejected the case of the respondent for grant of anticipatory bail and bail, it is not known how the same learned Judge has passed the impugned fair and decretal order in favour of the person, who has forged the signature of the appellant in the lease deed.*

*(d) The respondent could not produce a shred of paper to support his case that the rent was only Rs.1000/-. Therefore, absolutely we have no hesitation whatsoever in concluding that the suit filed by the respondent is by playing fraud on Court by producing forged and concocted documents. There is no prima facie case at all in*



*favour of the respondent. Hence, the respondent does not deserve the interim orders, as granted by the trial court and therefore, all these four appeals are allowed, vacating the interim orders.*

*(e) In normal course, we would have stopped with the vacating of interim orders. But in the case on hand, the respondent had the audacity to file the present suit on the basis of concocted and forged documents. The Hon'ble Supreme Court of India in **S.P. Chengalvaraya Naidu v. Jagannath**, (1994) 1 SCC 1, has held as follows:*

*“5..... The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, taxevaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.”*



(f) Further, under somewhat similar circumstances, where the possession of the property was not through legal means, in **Maria Margarida Sequeira Fernandes and ors. vs. Erasmo Jack De Sequeira, through LRs**, (2012) 5 SCC 370, The Hon'ble Supreme Court of India has held thus:

“98. In this view of the matter, the impugned judgment of the High Court as also the trial court deserve to be set aside and we accordingly do so. Consequently, this Court directs that the possession of the suit premises be handed over to the appellant, who is admittedly the owner of the suit property.”

(g) In that view of the matter, we have to direct the respondent to forthwith surrender the possession of the suit property/theatre to the appellant, within a

week's time, from the date of receipt of the copy of this Order.

(h) For indulging in this frivolous litigation, we also hold that the respondent is liable to pay a cost of Rs.1,00,000/- (Rupees One lakh only) to the appellant, within a week's time from the date of



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*receipt of a copy of this judgment.”*

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4. This Judgment was challenged before the Hon'ble Supreme Court of India in S.L.P.(Civil) Nos.9464 to 9467 of 2023. The Hon'ble Supreme Court of India refused to interfere.

5. At this juncture, it appears that the learned Senior Counsel appeared for the contemnor before the Hon'ble Supreme Court made a submission that since permanent fixtures were installed in the leased premises, some time should be granted to the contemnor to remove them and handover the possession of the premises to the owner. On the said statement, the Hon'ble Supreme Court observed as follows:-

*“Considering the above, subject to furnishing an undertaking before this Court within a week from today, stating that the petitioner shall not create any third party rights, and will voluntarily vacate and handover the peaceful vacant possession of the suit premises to the respondent by 8.7.2023, the impugned order shall not be enforced until 9<sup>th</sup> July, 2023.”*



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6. What happened thereafter is a subject matter of contempt. The contemnor has removed everything except the Walls and roof of the cinema theatre which was leased out.

7. It is the contention of the contemnor that he was permitted to remove everything by the Hon'ble Supreme Court.

8. The lease deed which was the subject matter of the proceedings in this case is dated 22.09.2018. Clause 11 of the lease deed reads as follows:-

“11.ஒப்பந்தகெடு 4 வருடம் முடிந்து திரையரங்கின் நிர்வாகத்தினை ஒப்படைக்க 2வது நபரும் 1வது நபரும் முடிவு செய்யும் பட்சத்தில்

i. திரையரங்கினை நல்ல நிலையில் 2வது நபர் 1வது நபரிடம் ஒப்படைக்க வேண்டியது.

ii. 2வது நபர் செய்த செலவுகள் அனைத்தும் இந்த 4 வருட ஒப்பந்த காலத்தில் திரையரங்கில் படம் போட்டு எடுத்து கொள்ள வேண்டியது.

iii. திரையரங்கில் திரையிடப்பட்ட திரைபடங்களின் நிலுவைச்சான்று விநியோகஸ்தரிடம்



அவ்வபோது பெற்று 2வது நபர், 1கூது நபரிடம் கொடுக்க தவறும் பட்சத்தில் அட்வான்ஸ் தொகை பட விநியோகஸ்தரிடம் கணக்கு செட்டில் செய்த பின்னரே திரும்பி தரப்படும்.

iv. நாளது தேதி வரை திரையரங்கத்திற்கு உரிய வாடகை, EB மற்றும் PF தொகையினை 2வது நபர் ஒவ்வொரு மாதமும் விதிக்கப்பட்ட கால கெடுவுக்குள் செலுத்தி விட வேண்டியது. இல்லாவிடில் மீத தொகையை அட்வான்ஸ் தொகை கணக்கில் செட்டில் செய்த பின்னர் திரும்பி தரப்படும்.

v. ஒப்பந்த காலத்தில் திரையிடப்பட்ட அனைத்து படங்களுக்கும் ஆன இலாப நஷ்டம் 2வது நபரைச் சேர்ந்தது.

9. From the above, it is clear that what was leased out was a cinema theatre with exhibiting equipments. In view of sub – clause 1 of Clause 11, the contemnor is bound to deliver the vacant possession of the cinema theatre in a good condition. The suit schedule property as described by the contemnor in his plaint before the District Court is as follows:-

*“All that piece and parcel of property situated at Nagapattinam Registration District, Nagapattinam Sub Registration District, Nagapattinam town, Ward No.3, Block 3, Town*



*Survey No.103/1 to the extent of 9004 square feet of land, 103/2 to the extent of 14518 square feet of land totally measuring 23522 square feet of land and the Devi Theatre situated in it **including Cinema Theatre, cabin room, office and the equipments required to operate the theatre, generator, canteen.***

*Four boundaries:*

*South by Municipality Drain, East by Road, West by P.R.Kothandaraman land, North by S.Kayaroganam Chervai Thottam.”*

10. This description was given by the contemnor himself and this includes the cinema theatre, cabin room, office and equipments required to operate the theatre, generator and the canteen. Therefore, what was leased out even according to the contemnor was a cinema theatre, including the screen, seats and equipments required to operate the theatre, generator and the canteen.

11. It is the complaint of the petitioner that the contemnor has removed everything except the skeleton of the building. This is also supported by the Commissioner's report filed before the District Court in I.A.No.11 of 2023 in C.O.S.No.3 of 2022 dated 03.10.2023.



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12. The learned counsel appearing for the contemnor would rely upon the order of the Hon'ble Supreme Court to claim that he was permitted by the Supreme Court to remove everything.

13. We are not able to read the order of the Supreme Court, in the manner suggested by the learned counsel for the contemnor. We genuinely feel that the order of the Hon'ble Supreme Court is being misinterpreted by the contemnor and his counsel to suit their convenience. The Hon'ble Supreme Court had not authorised the contemnor to remove any machinery or any other equipments which were subject matter of the *lis*. He was only granted time with a condition that he will not create third party rights. We therefore, find that the contemnor has wilfully disobeyed the order of this Court with knowledge of the fact that what he is doing is in disobedience of the orders of a Division Bench of this Court.

14. Hence, we have no other option, but to punish the contemnor for disobedience of the order of this Court. We therefore, impose a punishment of imprisonment for a period of three months and we direct the contemnor to pay



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the fine of Rs.2,000/- to be paid within a period of **15 days from today**. The sentence part of the order and will remain stayed for a period of 30 days, to enable the contemnor to seek further remedy. If the contemnor is unable to obtain an order of stay, within a period of 30 days from today, the punishment of imprisonment shall be implemented.

The Contempt Petition stands disposed of.

(R.S.M.,J.) (D.B.C.,J.)

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

Speaking order/Non-speaking order

**Note: Time bound case**



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**R.SUBRAMANIAN,J.**  
**and**  
**D.BHARATHA CHAKRAVARTHY,J.**

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