



Cont.P.(MD)No.1371 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 29.02.2024

PRONOUNCED ON:28.03.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

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in

C.R.P.(MD)No.57 of 2019

M/s Rajarathna Trust,
Neikarapatti,
represented by its Trustee
J.Thulasidharan,
Palani Taluk,
Dindigul District. : Petitioner / Petitioner

Vs.

Mr.S.Shiva Kumar,
The Land Acquisition Officer,
(Revenue Divisional Officer),
Revenue Divisional Office,
Palani, Dindigul District. : Respondent/Respondent

PRAYER:-Petition is filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for having committed wilful disobedience of the orders in C.R.P.(MD)No.57 of 2019, dated 08.03.2022.



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For Petitioner : Mr.T.D.Vasu

For Respondent : Mr.J.Ravindran
Additional Advocate General
assisted by
Mr.J.Ashok
Additional Government Pleader

ORDER

“The purpose of contempt jurisdiction is to uphold the majesty and dignity of the Courts of law since the image of such a majesty in the minds of the people cannot be led to be distorted. The respect and authority commanded by Courts of Law are the greatest guarantee to an ordinary citizen and the entire democratic fabric of the society will crumble down if the respect for the judiciary is undermined. It is true that the Judiciary will be judged by the people for what the judiciary does, but in the event of any indulgence which even can remotely be termed to affect the majesty of law, the society is bound to lose confidence and faith in the judiciary and the law courts thus, would forfeit the trust and confidence of the people in general.”

(Hon'ble Supreme Court in *Murray and Co vs Ashok Kr. Newatia and another reported in (2000)2 SCC 367*)



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2. The petitioner has filed the above contempt petition under Section 11 of the Contempt of Courts Act, 1971, seeking orders to punish the respondent for having committed wilful disobedience of the orders in C.R.P.(MD)No.57 of 2019, dated 08.03.2022.

3. This case is a classic example to show as to how the Government authorities have been delaying and dragging the matter and thereby preventing the land givers from realising the compensation awarded for the lands acquired. Though the land was acquired in 1970, the land givers are still unable to get the entire compensation even after the lapse of more than 53 years.

4. The facts not in dispute are:

(i) The petitioner's land of an extent of 32.08.5 hectares was acquired by the Government for construction of Palaru-Porunthalaru dam in the year 1970 and in respect of the above acquisition, the Subordinate Court passed a judgment and decree in L.A.O.P.No.3 of 2000, dated 16.07.2004, whereunder the Government was directed to pay Rs.82,800/- per acre as compensation for the acquired lands along with interest at 12% from 03.12.1999 to 17.04.2000, 30% solatium amount for the



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aforesaid amount from 03.12.1999, 9% interest from 18.04.2000 to 18.04.2001 for the aforesaid amount, 15% interest from 29.04.2001 till depositing the amount and that the Government was directed to pay the balance amount after deducting the amount already paid. The petitioner has filed a petition to amend the decree in I.A.No.6 of 2007 and after enquiry, the same was ordered on 18.03.2009 and thereby the decree was amended to the effect that the Government was directed to pay the interest at 12% from 15.05.1971 to 17.04.2000, 9% interest from 15.05.1971 to 15.05.1972 for the aforesaid amount and 15% interest from 16.05.1972 till the date of deposit.

(ii) Aggrieved by the award dated 16.07.2004, the petitioner as well as the respondent filed two separate appeals in A.S.(MD)No.123 of 2005 and A.S.(MD)No.15 of 2007 before this Court and a Division Bench of this Court, vide common judgment dated 04.03.2016 enhanced the compensation to Rs.1,11,800/- per acre and confirmed the other aspects of the order of the Sub Court, Palani. The petitioner/decreed holder has laid the execution petition in E.P.No.75 of 2016 for executing the common judgment dated 04.03.2016 claiming total amount payable as Rs.32,46,71,641.82/- and after deducting the amount of



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Rs.1,53,64,113/- already deposited, sought for the balance amount of Rs.30,93,07,528.82/-. Meanwhile, the respondent has filed a petition for Special Leave to Appeal in SLP(C)No.3116-3117 of 2017 and the Hon'ble Supreme Court, by observing that there is no merit, dismissed the SLP, vide order dated 17.02.2017. The executing Court, after enquiry, has determined the amount payable by the respondent as Rs.98,79,072/- and by observing that the respondent has not paid the amount, has ordered for attachment and the sale of movables shown in the execution petition, vide order dated 27.11.2017.

(iii) The petitioner, by alleging that there occurred some typographical errors, has filed an application in E.A.NO.243 of 2017 to review the order passed in E.P.No.75 of 2016, dated 27.11.2017. The respondent has also filed a counter statement and the learned Subordinate Judge, after enquiry, has passed an order dated 23.07.2018, partly allowing the petition in E.A.No.243 of 2017 and directed the respondent to pay Rs.5,14,79,869/-. Aggrieved by the said order of the executing Court, the petitioner as well as the Government have preferred the civil revision petitions in C.R.P..(MD)Nos.57 of 2019 and 1033 of 2020 and a learned Judge of this Court, vide common order dated 08.03.2022, partly



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allowed the revisions and directed the respondent to pay a sum of Rs.29,00,19,197/- after deducting the amount already deposited with interest at 15% from the date of execution petition till the date of deposit, within a period of six months from the date of receipt of a copy of that order. Since the respondent has failed to pay the compensation amount as directed by this Court within a period of six month from the date of receipt of a copy of that order, the petitioner has filed the present Contempt Petition.

5. It is evident from the records that a learned Judge of this Court, after hearing the Counsel for the petitioner, has ordered for issuance of statutory notice to the respondent, vide order dated 18.08.2023. When the matter was taken up on 21.11.2023, learned brother Hon'ble Mr.Justice Battu Devanand, though statutory notice sent to the respondent has been returned with endorsement that he was transferred to Dindigul District, taking note of the Counsel Mr.A.Kannan had entered into appearance on behalf of the respondent, directed the respondent to appear in person before the Court on 30.11.2023 and directed the Counsel to inform the same to the respondent. When the matter was taken up again on 30.11.2023, considering the submissions made by the



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learned Counsel for the respondent that the respondent has not received the copy of the order dated 08.03.2022 passed in the revision till the receipt of the notice in the Contempt Petition, this Court directed the Registry to submit a report on what date, the copy of the order dated 08.03.2022 was furnished to the parties.

6. When the matter was again taken up on 04.12.2023, the Registrar (Judicial), Madurai Bench of Madras High Court, has submitted his report stating that the P.A., to the Hon'ble Judge, who typed the order and the Court Officer, who drafted that order and the Assistant Registrar (C.S.-II), who approved that order dated 08.03.2022 in C.R.P. (MD)No.57 of 2019 failed to mark a copy of the order to the respondent, that the explanation has been called for from the concerned employees, that no copy application has been filed by the Additional Government Pleader on behalf of the respondent and that since the copy of the respondent was not marked to the respondent, the same could not be sent to him.

7. This Court, taking note of the above facts and also submission of the petitioner that the order copy was served on the respondent on



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05.06.2023, posted the matter to 12.12.2023 for compliance. When the matter was taken up again before Justice Battu Devanand, the learned Judge, after hearing both sides and taking note of the submission of the respondent that the respondent undertook to comply the order of this Court within a period of 8 weeks, has directed the respondent to comply with the order of this Court within 4 weeks and also directed to file an affidavit of undertaking, by making it clear that no further extension of time will be granted for compliance of the order.

8. Thereafter the matter was taken up before me on 24.01.2024 and 31.01.2024 and since the learned Additional Advocate General has sought two weeks time for reporting compliance, posted the matter to 15.02.2024 and when the matter was taken up on 15.02.2024, the learned Additional Advocate General submitted that the respondent has not complied with the orders of this Court, but proposal was made for getting sanction of Rs.4,31,68,634/- and when this Court expressed its unwillingness to accept the same, he submitted that he would get instructions with regard to the contempt petition and report the same on 20.02.2024 and again adjourned to 21.02.2024.



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9. When the matter was taken up on 21.02.2024, after hearing the arguments advanced by the petitioner, at request of the learned Additional Advocate General, the case was posted to 28.02.2024 for the respondent's side arguments. When the matter was taken up again on 28.02.2024, the learned Additional Advocate General submitted that he would get necessary instructions for depositing the entire amount and for filing undertaking affidavit and on that basis, the matter was posted to next day ie., to 29.02.2024. When the matter was taken up on 29.02.2024, the learned Additional Advocate General submitted that they are ready to deposit Rs.4,31,68,634/- , but he has not submitted anything about the depositing of entire amount and filing of undertaking affidavit as represented on the previous day, that he further submitted that they have no arguments to advance in the contempt petition, but again sought four weeks time for deposit. This Court, by observing that the Court is not inclined to adjourn the matter further, as sufficient time was already granted, reserved the petition for orders.

10. The main contention of the respondent is that they have already filed a petition to review the order passed in C.R.P.(MD)No.1033 of 2020, dated 08.03.2022 and the review has to be taken along with the



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present Contempt Petition. As rightly pointed out by the learned Counsel for the petitioner, there is no review petition pending as of now and an application to condone the delay of 510 days in filing the review application in C.M.P.(MD)No.11924 of 2023 is pending.

11. The learned Counsel for the petitioner would submit that subsequent to the orders passed in the Civil Revision Petitions dated 08.03.2022, the petitioner has approached the office of the respondent on very many occasions reminding them of compliance, but they have not even moved their little finger and after waiting for long time, the petitioner was constrained to move with the present petition for contempt.

12. In the counter affidavit, the contemnor has stated that the claim of the petitioner is against law and rules contained in the Land Acquisition Act 1 of 1984, that the review applications filed by the respondent are likely to be numbered very soon, that the respondent have fair chance to succeed in the review applications filed before this Court, that the respondent had not committed any wilful disobedience of the



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orders of this Court and that his unconditional apology may be accepted and purge him out of the contempt proceedings.

13. It is pertinent to note that the contemnor has filed the undertaking affidavit on 12.12.2023 and the last passage is extracted hereunder:

“Therefore it is humbly prayed that this Hon'ble court may graciously be pleased to accept the undertaking affidavit on this petitioner and grant time till 23.01.2023 to comply the order of this Hon'ble court dated 08.03.2022 in C.R.P. (MD)No.57 of 2019 and C.R.P.(MD)No.1033 of 2020 and thus render justice.”

14. Though the contemnor, in the undertaking affidavit, has referred about the filing of the review petition and their expectation of success in the review applications, has undertaken to comply with the order of the High Court and settle the land acquisition enhanced compensation amount. Though the period of undertaking given by the respondent was over by 23.01.2023, despite taking extensions and adjournments, the contemnor has not chosen to comply with the order of the Court as well as his undertaking.



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15. As already pointed out, the learned Additional Advocate General has been saying again and again that they are ready to pay Rs.4,31,68,634/- only and though he has taken time for getting instructions for depositing the entire amount and for filing of undertaking affidavit on 28.02.2024, he has not chosen to say anything about the depositing of the entire amount and filing of the undertaking affidavit, but was reiterating their readiness to deposit Rs.4,31,68,634/-.

16. When the learned Additional Advocate General submitted that the Contempt Petition may be taken along with the review petition, the learned Counsel for the petitioner has raised serious objections as the petition to condone the delay in filing the review alone is pending and that too with the inordinate delay of 510 days and considering the submissions on either sides, this Court has directed the respondent to deposit the amount into the Court and not to pay to the petitioner and after deposit, the review and the petition to condone the delay in filing the review can be taken up, but the respondent has neither made any attempt to deposit the amount nor shown their intention and willingness to deposit the amount.



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17. The contemnor in the hearings above noted, in order to show that they have been taking action, has produced the letters submitted by the respondent to the higher authorities and also the letter sent by the District Collector, Dindigul to the Commissioner of Land Administration, Chennai dated 16.02.2024. It is evident from the said letter dated 16.02.2024, after elaborately referring as to what had happened till date and direction of this Court to deposit the entire amount and also undertaking given by the contemnor to deposit the amount within four weeks and the subsequent orders passed by this Court, the District Collector has requested the Commissioner of Land Administration to get allotment of funds for depositing Rs.4,31,68,634/- to avoid the contempt of Court and to proceed with the further proceedings and to reduce the interest.

18. It is necessary to refer the last two passages in the said letter dated 16.02.2024:

“மாண்புமிகு சென்னை உயர்நீதிமன்ற மதுரை கிளை வழக்குகள்

C.R.P.(MD)No.57/2019 மற்றும் C.R.P.(MD)No.



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1033/2020 ஆகியவற்றில் வழங்கப்பட்ட தீர்ப்பின் அடிப்படையில் சுவாதீனம் எடுக்கப்பட்ட நாளான 15.05.1971 முதல் தீர்வம் பிறப்பிக்கப்பட்ட உத்தியான 17.04.2000 வரை 12 % கூடுதல் நில மதிப்பு அடிப்படையில் மேம்பீட்டுத்தொகை கணக்கிடப்பட்டால் 29.02.2024 வரையிலான காலத்திற்கு நில உரிமையாளருக்கு வழங்கப்படும் வண்டிய தொகை சுமார் ரூ.31இ31இ85இ903 / – ஆகும். பார்வை (11) – ல் காணும் கடிதத்தின் மூலம் ஏற்கனவு உமற்றெரிவிக்கப்பட்ட கணக்கீட்டின்படி ரூ.4 இ31இ68இ634 பரிந்துரைக்கப்பட்டுள்ளது.

எனவஇ பார்வை (16) – ல் காணும் வருவாய் உகாட்டாட்சியர் அறிக்கையில் உகாரியுள்ளவாறுஇ நீதிமன்ற அவமதிப்பினை தவிர்க்கும்பொருட்டும்இ மாண்பமை சேன்னை உயர்நீதிமன்ற மதுரைக்கிளை தாக்கல் செய்யப்பட்டுள்ள மறு ஆய்வு மனுக்களில் வழங்கப்படும் தீர்ப்பின் அடிப்படையில் தொடர் நடவடிக்கை உமற்றொள்ளும்பொருட்டும்இ அதிகரிக்கும் வட்டி வீதத்தினை தவிர்க்கும்பொருட்டும்இ மேம்பீட்டுத்தொகை ரூ. 4 இ31இ68இ634 / – ஐ பழனி சார்பு நீதிமன்றத்தில் நிபந்தனையின் அடிப்படையில் வைப்பீடு செய்யும் பொருட்டுஇ அரசிடமிருந்து நிதி ஒதுக்கீடு பெற்று வழங்குமாறு பணிவுடன் உகட்டுக்கொள்கிறேன்.”

19. It is pertinent to note that after informing the balance amount



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to be payable as Rs.31,31,85,903/-, the District Collector has only sought for fund allocation of Rs.4,31,68,634/- and the above letter would go to show their clear intention that they are not willing and ready to deposit the entire amount as per the order of this Court and as per the undertaking given by the contemnor. Subsequent to the letter of the District Collector, the Commissioner of Land Administration, Chepauk, Chennai has sent a communication to the Additional Chief Secretary to Government, Water Resources Department, Secretariat, Chennai, dated 29.01.2024, wherein after reiterating the contentions of the District Collector, has recommended to the Government that a sum of Rs.4,31,68,634/- to be sanctioned for the payment of enhanced compensation.

20. The main objection raised for depositing the entire amount as directed by this Court is that the Sub Court has no jurisdiction to amend the decree dated 16.07.2004, as per the order passed in I.A.NO.6 of 2007, dated 18.03.2009, while the appeals are pending before the High Court challenging the award dated 16.07.2004, that the calculations made by the petitioner as well as the Court are against the guidelines issued G.O.Ms.No.401, dated 12.10.2018. It is pertinent to note that the



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respondent has preferred a revision challenging the order passed in I.A.No.6 of 2007, dated 18.03.2009 along with an application to condone the delay of 2837 days in filing the revision and that this Court by holding that there is no sufficient cause shown by the revision petitioner to condone the inordinate delay of 2837 days dismissed the petition and consequently rejected the Civil Revision Petition in SR., stage., vide order dated 24.04.2017 and the relevant portion is extracted hereunder:

“ Further, Special Leave Petition preferred by the revision petitioner was also dismissed by the Hon'ble Supreme Court on 17.02.2017. Pending A.S.(MD)Nos.123 of 2005 and 15 of 2007 relying upon the judgment of the Hon'ble Supreme Court in Siddappa Vesappa Kuri and another Vs. Special Land Acquisition Officer and another reported in 2002(2) L.W. 2015, the period of reckoning to pay interest has been amended from 03.12.1999 (date of award) to 15.05.197 (date of possession). Though this amendment was allowed by the Land Acquisition Appellate Authority in I.A.No. 6/2007 by order dated 18.03.2009, the revision petitioner herein has sought fit to challenge the same after delay of 2837 days after their failure to succeed before the High Court in A.S.(MD)Nos.123 of 2005 and 15 of 2007 as well as before the Hon'ble Supreme Court in S.L.P. C.C.Nos.3116



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and 3117 of 2017. Except pendency of A.S.(MD)Nos.123 of 2005 and 15 of 2007 and S.L.P. C.C.Nos.3116 and 3117 of 2017, there is no sufficient cause shown by the revision petitioner to condone the enormous delay of 2837 days. Hence, this Court finds no merit to entertain this petition.

4. Accordingly, this petition stands dismissed. Consequently, C.R.P.(MD)No.SR14238 of 2017 stands rejected. No costs."

21. It is pertinent to note that the objections now raised, had already been raised and the same was rejected by this Court. Hence, the respondent is clearly estopped from raising the same plea again and again. More importantly, the District Collector, Dindigul in the letter dated 16.02.2024 referred above has stated that in the Land Acquisition Cases in L.A.O.P.Nos.6/1996 and 7/1996 relating the same acquisition interest was calculated from the date of taking posse of land and a sum of Rs.25,57,13,490/- was allotted as per G.O.Ms.No.51, Water Resources (K2) Department, dated 26.07.2023 and the relevant portion is extracted hereunder:

“மலும் தே நில எடுப்பில் கவரப்பட்ட கூடுதல் மேம்பீட்டுத்தொகை



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஁காரி தோடர்ப்பட்ட நில ஁டுப்பு ஁சல் வழக்குக்ள 06/1996 மற்றும் 07/1996 ஁கியவற்றிற்கு நிலமதிப்புடன் கூடுதல் நிலமதிப்பு மற்றும் ஁றதல் தோகை ஁கியவற்றின் கூடுதல் தோகைக்கு நிலம் கவாதீனம் ஁டுக்கப்பட்ட நாள் முதல் வட்டித்தோகை கணக்கிடப்பட்டு ஁ரசாணை (நிலை) ஁ண்.51 நீர்வளத் (஁க.2) துறை நாள் 26.07.2023 – ஁ப்ர ௫.25இ57இ13இ490/ – நிதி ஒதுக்கீடு செய்யப்பட்டுள்ளது. நீநர்விலும் மாண்பமை நீதிமன்ற ஁த்தரவுகளால் ஁ரசாணை நிலை ஁ண்.401 வருவாய் (ம) ஁யரிடர் ஁மலாண்மைத்துறை நாள். 12.10.2018 – ஁ பின்பற்ற யேலாத நிலையுய நிதி ஒப்பளிப்பு வழக்கப்பட்டது.”

After paying the compensation to the other land givers in the same acquisition, by calculating the interest and the total amount in the same mode that was canvassed by the Government authorities themselves, in the present case before the executing Court and was accepted by this Court in C.R.P.(MD)No.57 of 2019 and 1033 of 2020, it is shocking and atrocious to notice the objections of the authorities that they cannot pay as per those calculations to the present petitioner, who is admittedly similarly placed with the other land givers. In order to establish the contempt of Court, it is sufficient to prove that the conduct was wilful and that the contemnor knew of all the facts which made it a breach of



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undertaking. On considering the entire facts and circumstances, time taken by the contemnor in the undertaking affidavit filed by him and the subsequent extension of time taken by the contemnor and also the stand of the District Collector and the Commissioner of Land Administration in this regard, this Court has no hesitation to hold that the contemnor has wilfully failed to comply with the undertaking given by him and wilfully disobeyed the orders of this Court. Consequently, this Court concludes that the contemnor is guilty of contempt of Court and is liable to be punished.

22. The present contemnor is the only Revenue Divisional Officer / Land Acquisition Officer and nobody can expect the contemnor to pay the amount from his pocket and moreover, it is practically not possible for him to pay such huge amount. No doubt, the amount is due from the Government, but the Government is functioning only through the officers such as the contemnor. Apart from punishing the contemnor, this Court has searched for the availability of any power to get the compliance of the undertaking and the orders of this Court.

23. My esteemed brother, Hon'ble Mr. Justice



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G.R.SWAMINATHAN, in the case of **N.Balakrishnan Vs.**

R.Seethalakshmi, District Collector, Chennai in Cont.P.(MD)No.1017

of 2021, dated 20.01.2022 had taken aid from the English decisions and the relevant passages are extracted hereunder:

“ 11. When the Constitutional Court is confronted with an act of Contempt, its powers are not limited to handing out sentences alone. In *Elliot V. Klinger* (1967) 1 WLR 1165, the following passage from *Oswald's Contempt of Court* was cited:

“The Court, however has, power to restrain by injunction threatened contempts. It is competent for the Court where a contempt is threatened or has been committed, and on an application to commit, to take the lenient course of granting an injunction instead of making an order for committal or sequestration, whether the offender is a party to the proceedings or not.”

In Howarth V. Howarth (L.R.) 11 P.D. 95, it was held that when steps are taken for enforcing an order, the respondent has no right to say that he prefers going to prison; he is compellable to obey the order of the Court. It was not beyond the power of the Court to ensure obedience of its order by directing the act to be done by some person appointed for that purpose instead of enforcing its order by imprisonment.



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12. *On most occasions, when the contemnor expresses apology demonstrating his sense of remorse, the Court does accept the same and closes the proceedings. As observed elsewhere, 'slap – say sorry – and forget' approach cannot be the right ending in all situations. The contemnor must purge himself of the contempt. The majesty of the Court and the authority of law must be upheld. This can be achieved only if the offending act is effaced. Contempt jurisdiction is not only about punishment but also about restoring the status quo that obtained following the judicial order and before the offending act was committed. Halsbury's Laws of England states that the Court may invoke other remedies in lieu of punitive action. In AG V. Times Newspapers Ltd., (1973) 3 All ER 54, the house of Lords addressing the question as to whether the publication of Articles in respect of a pending litigation would amount to contempt; granted injunction restraining publication that may pre-judge the issue. When injunction can be granted in exercise of Contempt jurisdiction, certainly the power to set aside the offending action is also equally available.”*

24. Recently, the Hon'ble Supreme Court in the case of ***Balwantbhai Somabhai Bhandari Vs. Hiralal Somabhai Contractor (deceased) represented by LRs and others*** reported in **2023 Live Law SC 750**, while dealing with the same issue, has specifically observed that



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apart from punishing the contemnor, for his contumacious conduct, the majesty of law may demand that appropriate directions be issued by the court so that any advantage secured as a result of such contumacious conduct is completely nullified and this may include issue of directions either for reversal of the transactions by declaring such transactions to be void or passing appropriate directions to the concerned authorities to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or any one claiming under him and the relevant passages are extracted hereunder:

“79. We now proceed to answer the third question formulated by us as regards the power of the contempt court to declare any contemptuous transaction non est or void.

80. A Three-Judge Bench of this Court in the case of State Bank of India and Others v. Dr. Vijay Mallya reported in 2022 SCC Online SC 826, in clear terms said that apart from punishing the contemnor for his contumacious conduct, the majesty of law may demand that appropriate directions be issued by the Court so that any advantage secured as a result of such contumacious conduct is completely nullified. The approach may require the Court to issue directions either for reversal of the transactions in question by declaring said transactions to be void or passing appropriate directions to the concerned authorities to see that the contumacious



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conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or anyone claiming under him.

81. It would be pertinent, in this context, to refer to the decision of the Chancery Division in Clarke and others v. Chadburn and others reported in (1985) 1 All ER 211, wherein it was held that an act done in wilful disobedience of an injunction or court order is not only a contempt of court, but also an illegal and invalid act which could not, therefore, effect any change in the rights and liabilities of others. Similar view was expressed by this Court in Satyabrata Biswas and Others v. Kalyan Kumar Kisku and Others reported in (1994) 2 SCC 266, wherein the contempt jurisdiction was invoked by the respondents against the appellants, and during the contempt proceedings, it transpired that a sub tenancy was created while the status quo order was in operation. This Court held that creation of sub-tenancy was in violation of the status quo order and parties were relegated to the position as existed on the date of the status quo order. This Court, inter alia, observed thus: “23. ... Such an order cannot be circumvented by parties with impunity and expect the court to confer its blessings. It does not matter that to contempt proceedings Somani Builders was not a party. It cannot gain advantage in derogation of the rights of the parties, who were litigating originally. If the right of sub-tenancy is recognised, how is



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status quo as of 15.9.1988 maintained? Hence, the grant of sublease is contrary to the order of status quo. Any act done in the teeth of the order of status quo is clearly illegal. All actions including the grant of sub-lease are clearly illegal.” (Emphasis supplied)

...

18. The above principle has been applied even in the case of violation of orders of injunction issued by civil courts. In Clarke v. Chadburn [(1985) 1 All ER 211] Sir Robert Megarry V-C observed: “I need not cite authority for the proposition that it is of high importance that orders of the court should be obeyed. Wilful disobedience to an order of the court is punishable as a contempt of court, and I feel no doubt that such disobedience may properly be described as being illegal. If by such disobedience the persons enjoined claim that they have validly effected some charge in the rights and liabilities of others, I cannot see why it should be said that although they are liable to penalties for contempt of court for doing what they did, nevertheless those acts were validly done. Of course, if an act is done, it is not undone merely by pointing out that it was done in breach of the law. If a meeting is held in breach of an injunction, it cannot be said that the meeting has not been held. But the legal consequences of what has been done in breach of the law may plainly be very much affected by the illegality. It seems to me on principle that those who defy a prohibition ought



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not to be able to claim that the fruits of their defiance are good, and not tainted by the illegality that produced them.”

19. To the same effect are the decisions of the Madras and Calcutta High Courts in Century Flour Mills Ltd. v. S. Suppiah [AIR 1975 Mad 270 : (1975) 2 MLJ 54] and Sujit Pal v. Prabir Kumar Sun [AIR 1986 Cal 220 : (1986) 90 CWN 342]. In Century Flour Mills Ltd. [AIR 1975 Mad 270 : (1975) 2 MLJ 54] it was held by a Full Bench of the Madras High Court that where an act is done in violation of an order of stay or injunction, it is the duty of the court, as a policy, to set the wrong right and not allow the perpetuation of the wrongdoing. The inherent power of the court, it was held, is not only available in such a case, but it is bound to exercise it to undo the wrong in the interest of justice. That was a case where a meeting was held contrary to an order of injunction. The Court refused to recognise that the holding of the meeting is a legal one. It put back the parties in the same position as they stood immediately prior to the service of the interim order.

20. In Sujit Pal [AIR 1986 Cal 220 : (1986) 90 CWN 342] a Division Bench of the Calcutta High Court has taken the same view. There, the defendant forcibly dispossessed the plaintiff in violation of the order of injunction and took possession of the property. The Court directed the restoration of possession to the plaintiff with the aid of police. The Court observed that no technicality can prevent



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the court from doing justice in exercise of its inherent powers. It held that the object of Rule 2-A of Order 39 will be fulfilled only where such mandatory direction is given for restoration of possession to the aggrieved party. This was necessary, it observed, to prevent the abuse of process of law.

21. There is no doubt that this salutary rule has to be applied and given effect to by this Court, if necessary, by overruling any procedural or other technical objections. Article 129 is a constitutional power and when exercised in tandem with Article 142, all such objections should give way. The court must ensure full justice between the parties before it.” (Emphasis supplied)

.....

88. Thus, although Section 52 of the Act 1882 does not render a transfer pendente lite void yet the court while exercising contempt jurisdiction may be justified to pass directions either for reversal of the transactions in question by declaring the said transactions to be void or proceed to pass appropriate directions to the concerned authorities to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or anyone claiming under him.

89. The High Court declared all the sale deeds executed by the contemnors in favour of the purchasers as non est. The High Court ordered that the sale deeds stand cancelled and



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set aside. The contemnors were directed to restore the position which was prevailing at the time of the order dated 14.10.2015 passed by the High Court. In our opinion, the High Court was fully justified in declaring the sale deeds as non est or void.

.....

116. We may summarise our final conclusion as under:

(i)

(ii)

(iii) Although the transfer of the suit property pendente lite may not be termed as void ab initio yet when the court is looking into such transfers in contempt proceedings the court can definitely declare such transactions to be void in order to maintain the majesty of law. Apart from punishing the contemnor, for his contumacious conduct, the majesty of

law may demand that appropriate directions be issued by the court so that any advantage secured as a result of such contumacious conduct is completely nullified. This may include issue of directions either for reversal of the transactions by declaring such transactions to be void or passing appropriate directions to the concerned authorities to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or any one claiming under him.”



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25. Considering the legal position above referred, there is no dispute that this Court is having necessary powers and jurisdiction in contempt proceedings, apart from punishing the contemnor, directing the authorities concerned to comply with the undertaking given by the Government officials and to comply with the orders of this Court. A perusal of the communications sent by the Revenue Divisional Officer, Executive Engineer of PWD department, District Collector of Dindigul, and Commissioner of Land Administration, Chennai, would reveal that the Commissioner of Land Administration and the Additional Chief Secretary to Government, Water Resources Department are the authorities who are in a position to make recommendations and to get allotment of funds.

26. As already pointed out, the District Collector, Dindigul as well as the Commissioner of Land Administration, in their communications, after referring to the directions of this Court to deposit the entire amount to the tune of nearly Rupees Thirty Crores, they have sought for sanction for Rs.4,31,68,634/- only and the same by itself would exhibit their unwillingness to obey the orders of this Court. I am also informed that



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the said amount of Rs.4,31,68,634/- has already been deposited. Hence, this Court is of the view that the said authorities are to be directed to deposit the balance amount within a period of four weeks from today, failing which, the proceedings for contempt of Court will be initiated against them.

27. In the result, the contemnor is directed to pay a fine of Rs.2,000/-(Rupees Two thousand only) to the Chief Justice Relief Fund and to pay costs of Rs.25,000/- (Rupees Twenty Five thousand only) to the petitioner within a period of two weeks from the date of receipt of a copy of this order. The Commissioner of Land Administration, Land Administration Department, 2nd Floor, Ezhilagam, Chepauk, Chennai-600 005 and the Additional Chief Secretary to Government, Water Resources Department, Secretariat, Fort St.George, Chennai – 600 009 are hereby directed to deposit the balance compensation amount as undertaken by the contemnor and as per the orders of this Court within a period of four weeks from today, failing which the proceedings for contempt of Court will be initiated against them.

30. Post the matter on 29.04.2024.



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28 .03.2024

NCC : Yes : No
Index : Yes : No
Internet : Yes : No

SSL

To

1. Mr.S.Shiva Kumar,
The Land Acquisition Officer,
(Revenue Divisional Officer),
Revenue Divisional Office,
Palani, Dindigul District.
2. The Commissioner of Land Administration,
Land Administration Department,
2nd Floor, Ezhilagam, Chepauk,
Chennai-600 005
3. The Additional Chief Secretary to Government,
Water Resources Department,
Secretariat, Fort St.George,
Chennai – 600 009
- 4.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

SSL

PRE-DELIVERY JUDGMENT MADE IN

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28.03.2024