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Cont. P. No.408 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2026

CORAM

THE HON'BLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

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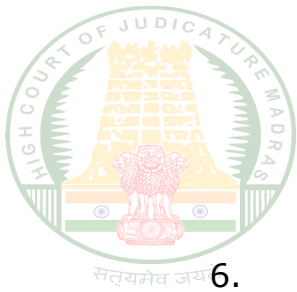
Dr.Shyamraj

.. Petitioner

-VS-

1. Mr.Manjunath
The Thasildhar
Perambur-Purasaiwalkam Taluk,
Chennai-23.
2. Sri Sundar Vinayagar Sabha,
Rep. By its President,
No.42, Paper Mills Road,
Perambur, Chennai 600 011.
3. Sri Sundar Vinayagar Sabha,
Rep. By its Secretary,
No.42, Paper Mills Road,
Perambur, Chennai 600 011.
4. Sri Sundar Vinayagar Sabha,
Rep. By its Joint Secretary,
No.42, Paper Mills Road,
Perambur, Chennai 600 011.
5. Sri Sundar Vinayagar Sabha,
Rep. By its Treasurer,
No.42, Paper Mills Road,
Perambur, Chennai 600 011.

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6. The Joint Commissioner,
HR & CE Department,
Chennai-34.
(RR2 to 6 suo motu impleaded
vide order of Court. dt.20.02.2019
in Cont.P.)

.. Respondents

Prayer: Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents for willful disobedience of the order of this Court dated 06.02.2017 passed in W.P.No.2811/2017.

For Petitioner : Mr.P.Sivamani

For Respondents : Mr.Mohammed Fayaz Ali
Govt. Pleader, for R-1
: Mr.Vijayaraj Naren
for RR 2 to 5
: Mr.V.Chandra Prabhu
Spl. Govt. Pleader (HR & CE)
for R-6

* * * * *

ORDER

(Order of the Court was made by G.Arul Murugan, J.)

This contempt petition is filed alleging disobedience of the order dated 06.02.2017 passed in W.P.No.2811 of 2017.

2. The writ petition came to be filed seeking for a direction to the respondents to maintain the pond by constructing parapet wall around the entire perimeter of the pond located at No.68, Siruvallur



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Village, Perambur Purasaiwalkam Taluk, Chennai District, comprised in Old Survey No.5/59 Part, New Survey No.55, Block No.9, measuring an extent of 0.37.23 hectares approx., by removing the illegal encroachments.

3. This Court passed the following order, vide order dated 06.02.2017:

"The allegation of the petitioner of encroachment of pond located at No.68, Siruvallur Village, Perambur Purasaiwalkam Taluk, Chennai District, comprised in Old Survey No.5/59 part, New Survey No.55, Block No.9, by the sixth respondent be looked into by causing an inspection of site by the fifth respondent within a period of fifteen (15) days from the date of receipt of the order and in case, encroachments are found, action in accordance with law be taken and concluded within a maximum period of two (2) months thereafter.

Writ Petition is, accordingly, disposed of. No costs. Consequently, W.M.P.Nos.2742 and 2743 of 2017 stand closed."

4. A perusal of the above order reveals that the 5th respondent therein was directed to cause inspection within a period of 15 days on receipt of the order and the encroachments were directed to be removed within a period of two months thereafter. Since the aforesaid order dated 06.02.2017 was not complied with, the present contempt petition was filed by the petitioner.

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5. When the contempt petition was listed for hearing on several occasions, this Court, taking note of the fact that a Trust claimed right over the property and also finding from the revenue records that the property in question has been classified as 'sarkar poramboke' and 'kulam', passed the following order dated 20.02.2019:-

"The Tahsildar, Ayanavaram Taluk, Chennai, is present today. As noted on the last occasion, we are not convinced with the reply given. Admittedly, as on today, the revenue record shows that the property in question is classified as 'sarkar poramboke' and 'kulam'. Even as per the communication sent by the Assistant Commissioner, Hindu Religious and Charitable Endowment (H.R.&C.E.) Department (hereinafter referred to as 'H.R. & C.E., Department) dated 03.04.2018, the service inam was given in favour of the Trust wayback in the year 1934. Now, from the photographs produced, it appears that an attempt is being made to put up construction in the place, which is shown as 'sarkar poramboke'. The extent is also huge. The grant is 0.66 cents alone. It appears a sale deed has also been registered for 0.98 cents in the name of one Annasamy Mudaliar, for which, Shri Sundara Vinayagar Sabha is paying tax while holding possession. To get more clarity, we deem it appropriate to implead the sixth respondent in the writ petition viz., Sundara Vinayagar Sabha, represented by its President.

2. We are of the view that it would be appropriate as also relevant to implead the President, Secretary, Joint Secretary and Treasurer representing the abovesaid Sabha. Similarly, we would like to hear the Joint Commissioner, H.R. & C.E. Department as a party in the contempt petition. Accordingly, we suo motu



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implead (1) Sri Sundara Vinayagar Sabha, represented by its President; (2) Secretary; (3) Joint Secretary; (4) Treasurer; (5) Joint Commissioner, H.R. & C.E. Departemtn, as respondents 2 to 6 in this contempt petition.

3. Post on 06.03.2019. In the meanwhile, status quo as on today shall be maintained by the parties concerned. We may also note that the sixth respondent itself has been registered only in the year 2003. Therefore, there is a question mark over the title, which seeks to claim as against erstwhile sabha in whose favour the service inam was granted by way of registered document.

4. Issue notice to the newly impleaded respondents. The learned counsel for the petitioner is permitted to serve notice on the learned Government Pleader. Private notice is also permitted."

6. The above order is self-explanatory, wherein this Court has held that the property in question is a 'sarkar poramboke' and 'kulam' belonging to the Government and anyone occupying the same would be an encroacher and the encroachment is to be removed. This Court had also given a categorical finding that the claim made by the private persons was in respect of service inam granted to a Trust wayback in the year 1934 and also found that when that right is only for 0.66 cents alone, a sale deed was registered for 0.98 cents in favour of the said Trust and therefore, finding that the encumbrance made cannot be entertained, this Court impleaded the authorities of the Trust in the contempt petition.

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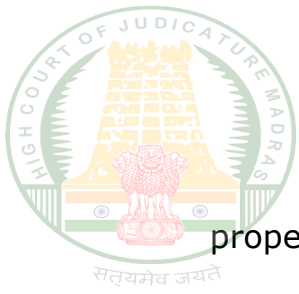
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7. Today, when the contempt petition is listed for hearing, the learned Government Pleader, by filing the status report and certain documents, submitted that since the property falls within the jurisdiction of the Corporation, the Corporation would be the competent authority to take enforcement action for removal of encroachments. We are not able to accept the said contention, in view of the fact that this order came to be passed as early as on 06.02.2017 and even in the contempt petition, the Tahsildar was directed to appear, where he appeared and thereafter, the order dated 20.02.2019 came to be passed. When the factual matrix remains so, the present stand taken by the Tahsildar that he would not be competent to remove the encroachment cannot be countenanced.

8. When the order in the writ petition has been passed as early as 06.02.2017 directing the removal of the encroachments, and the respondents 2 to 5 were impleaded in the contempt petition on 20.02.2019 itself, till date no appeal or any review has been preferred as against the order. When the lands are classified as Government Poromboke – 'குளம்' (Pond) in the revenue records, if at all any one including impleaded respondents are claiming any right over the

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property, then it would be only open to the parties who claim rights to approach the Competent Civil Court to establish their rights and seek for appropriate relief or challenge the classification in the manner known to law. Admittedly, when the property has been classified as waterbody, the same cannot be allowed to be encroached and it is to be protected.

9. Under such circumstances, we are inclined to close this contempt petition by directing the Tahsildar, Ayanavaram Taluk, who appeared on 20.02.2019, or the Tahsildar concerned, to forthwith remove the encroachments from the aforesaid property. The Divisional Engineer of the Corporation of Chennai of the concerned Zone and also the Assistant Commissioner of Police of the concerned division, shall be present and ensure adequate support and facilitate the removal of encroachments in the subject property. The encroachments shall be removed within a period of four weeks from today.

With the aforesaid directions, this contempt petition stands closed.



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After removing the encroachments, the first respondent shall file a compliance report before the Registrar-General of this Court, within a period of four weeks thereafter.

(SUSHRUT ARVIND DHARMADHIKARI, CJ.) (G.ARUL MURUGAN, J.)
31.07.2026

Index : Yes/No
Neutral Citation : Yes/No

sra

Note: A copy of the order be given to the Registrar-General of this Court.



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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN, J.

(sra)

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