

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Contempt Petition No.1156 of 2014
and

Review Application (Writ) No.108 of 2015
in
W.P.No.29497 of 2008

Cont.P.No.1156/2014

1.K.S.M.Amintha Sharifa
2.S.S.O.Sarathu Jailani
3.Sithi Basheera
4.Zulaiha Banu .. Petitioners

-vs-

1.Mr.Nakeeran
The Executive Engineer,
Zone-X,
Corporation of Chennai,
No.115, Dr.Muthulakshmi Salai,
Adayar, Chennai - 600 020.
2.Tmt.E.Sundaravalli, I.A.S.,
The Collector,
Chennai District, Singaravela Maligai,
Rajaji Salai, Chennai - 600 001.
3.Tmt.Sivagama Sundari,
The Tahsildar,
Mylapore-Triplicane Taluk,
Greenways Road,
Chennai. .. Respondents

Review Application No.108 of 2015

The Executive Engineer,
Zone XIII,
Corporation of Chennai,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020. .. Petitioner

-vs-

3.Sithi Basheera

4.Zulaiha Banu

5.The Executive Engineer /
Administrative Officer,
Tamil Nadu Housing Board,
Besant Nagar Division,
Chennai - 600 020.

6.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Chennai - 600 008.

7.The Collector,
Chennai District,
Singaravelar Maligai,
Rajaji Salai, Chennai - 600 001.

8.The Tahsildar,
Velachery, Chennai - 600 042. .. Respondents

Prayer in Cont.P.No.1156/2014:- Petition under Section 11 of the Contempt of Courts Act, 1971 praying to punish the respondents for their act of willful disobedience to the order passed by this Court in W.P.No.29497/2008, dated 30.08.2013.

Prayer in Rev.Appln.No.108/2015:- Review Application filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure to review the order, dated 30.08.2013, passed in W.P.No.29497 of 2008.

Cont.P.No.1156/2014

For Petitioner : Mr.G.Thilakavathi

<https://hcservices.ecourts.gov.in/hcservices/> For R1 : Ms.Karthikaa Ashok
For R2 & R3 : Mr.A.Kumar, Spl.G.P

Rev.Appln.No.108/2015

For Petitioner : Ms.Karthikaa Ashok
 For R1 to R4 : Ms.G.Thilakavathi
 For R7 & R8 : Mr.A.Kumar, Spl.G.P

COMMON ORDER

With the consent of the learned counsel appearing on either side, contempt petition and review application are taken up together for final disposal.

2. The grievance of the petitioner in the contempt petition is, the order passed by this Court in W.P.No.29497 of 2008, dated 30.08.2013, giving a direction to the Executive Engineer, Corporation of Chennai / first respondent therein to remove the encroachment with the assistance of the Revenue Authorities has not been complied with, therefore, the respondents should be punished for non-compliance of the order passed by this Court as stated above.

3. On the other hand, the grievance of the review applicant is that the Corporation of Chennai is not in a position to take over the land, because, no valid gift deed has been executed in favour of the Corporation of Chennai by the writ petitioners, therefore, unless the encroachers are evicted on the property gifted by the writ petitioners, the Corporation of Chennai may not be in a position to take

over the property.

4. Be that as it may, when the matter was taken up, learned Special Government Pleader appearing for the respondents 2 and 3 in Contempt Petition No.1156 of 2014, placed on record a communication dated 11.07.2010 addressed to him by the Tahsildar, Velachery. Relevant portion of the said communication is extracted hereunder:

"The above survey field was inspected by me along with the Assistant Director of Survey and Land Records, Deputy Inspector of Survey and Taluk Deputy Surveyor of this office. In this connection, it is stated that the Road abutting the petitioner's plot is not encroached and kept open with compound wall and gate on the eastern side with easy access to the petitioner's vacant plots. Hence, the Corporation can form the road and declare as public road as per the lay out given by Tamil Nadu Housing Board."

A mere reading of the above said communication shows that the road abutting the petitioner's plot is not encroached and kept open with compound wall and gate on the eastern side with easy access to the petitioner's vacant plots, therefore, the Corporation of Chennai can form the road and declare it as public road as per the lay out given by the

Tamil Nadu Housing Board. In view of such communication, learned counsel for the review applicant fairly submitted that in view of such stand taken by the Tahsildar, Velachery, a suitable direction may be issued to the respondents to comply with the order of this Court.

5. Since the gift deed has already been given by the Housing Board to the Corporation of Chennai, the respondents in the contempt petition are directed to accept the same and do the needful, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the Corporation of Chennai, in my view, cannot have any grievance to accept the gift deed for granting approval to the writ petitioners, as there is no encroachment in the land gifted.

6. Accordingly, for the reasons cited above, the review application is dismissed and the contempt petition is closed.

Rkm

SD/

DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this

To

- 1.Mr.Nakeeran
The Executive Engineer,
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Corporation of Chennai,
No.115, Dr.Muthulakshmi Salai,
Adayar, Chennai - 600 020.
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The Collector,
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