

Sub.A.No.405 of 2014 in
Cont. P.No.629 of 2010
T.S.SIVAGNANAM, J.

This Sub Application has been filed to modify the order made in Cont. P.No.629 of 2010 dated 21.04.2011.

2.The Contempt Petition was filed alleging that the petitioner herein has wilfully disobeyed the order and direction issued by this Court in W.P.No.10220 of 2009 dated 29.01.2010. The Contempt Petition was disposed of on 21.04.2011 and the operative portion of the order reads as follows:

"3.In view of such stand taken, this Contempt Petition is disposed of with a direction to the respondent to pay the petitioner the compensation to the extent of the land used for the formation of road viz. 1.25 cents in Survey No.60/7A at the market value prevailing on the date when the road was formed and also remove any encroachment in the remaining area which has not been utilised for the purpose of formation of road. The compensation shall be paid to the petitioner within a period of three months from the date of receipt of a copy of this order.

3.The present Sub Application has been filed by the Highways Department, who was the respondent in the Contempt Petition, stating that they have not encroached any portion of the writ petitioner's land and the land which was acquired is only 1.26 cents. Therefore, it is submitted by the Highways Department that the observations made in the order passed in the Contempt Petition that "...and also remove any encroachment in the remaining area which has not been utilised for the purpose of formation of road..." is unnecessary, in the light of the specific stand taken by the Highways Department in their affidavit.

4.Further, it is seen that the Contempt Petitioner V.R.Loganathan, has filed a Suit in O.S.No.573 of 1989 for permanent injunction and for mandatory injunction and his neighbours namely Karpooravalli and N.D.Govindasamy Pillai, who have purchased the adjoining land from the father of the Contempt Petitioner have also filed O.S.No.606 of 1989 for declaration of title, which was decreed by the District Munsif, Tiruttani, and the Suit filed by the respondent herein was dismissed, as against which the respondent has preferred two Appeals before the Sub Court in A.S.Nos.117 and 118 of 2001. It is further stated that again the neighbours of the respondent have filed O.S.No.99 of 2012 on the file of the District Munsif, Tiruttani, against six persons including the respondent herein and the Divisional Engineer (Highways), Tiruvallur.

5.In the light of the above, that portion of the order where observation was made stating that "...and also remove any encroachment in the remaining area which has not been utilised for the purpose of formation of road..." shall stand deleted. Registry is directed to issue fresh certified copy of the order to the parties concerned and also communicate the same to the respondent.

The above Sub Application is ordered accordingly.

Rpa

24.04.2015

T.S.SIVAGNANAM, J.
rpa

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24.04.2015