

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.09.2015

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Contempt Petition No.939 of 2014

Kovai Medical Centre Research and Educational
Trust, Rep. by its Trustee Dr.Nalla G. Palanisamy
Avanashi Road
Coimbatore-641 014. ..Petitioner

-Vs.-

K. Chellamuthu
Chairman/Managing Director
Tamil Nadu Housing Board
493, Anna Salai
Nandanam
Chennai-600 035. ...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 of this Court in
W.P.No.22545 of 2013 dated 11.09.2013.

For petitioner : Mr. T. Sellapandian
For Respondent : Mr.B. Viveka Vanan

O R D E R

The petitioner seeks initiation of contempt
proceedings against the respondent alleging disobedience of
the order passed by this Court in W.P.No.22545 of 2013.

The facts:

2. The petitioner purchased land in Kalapatti Village subsequent to the acquisition by the Tamil Nadu Housing Board. The petitioner thereafter along with the land owners, filed writ petition in W.P.No.16417 of 1998 challenging the land acquisition. The writ petition was taken up along with similar matters and a common order dated 30 August 2010 was passed quashing the declaration under Section 6 of the Land Acquisition Act. The order was upheld by the Division Bench. The Tamil Nadu Housing Board unsuccessfully challenged the judgment before the Supreme Court. Thereafter the petitioner submitted an application before the Tahsildar, Coimbatore to grant No Objection Certificate to deal with the property.

3. The petitioner filed W.P.No.22545 of 2013 to direct the respondent herein to grant No Objection Certificate in respect of the lands in Survey Nos.292/1, 293/1 and 294/1 situated at Kalapatti Village. The writ petition in W.P.No.22545 of 2013 was disposed of by this Court by directing the respondent to consider the matter on merits within a period of six weeks.

4. The petitioner filed this contempt petition primarily on the ground that in spite of the direction issued by this Court, follow up action was not taken by the respondent.

5. During the currency of the contempt petition, the

Tamil Nadu Housing Board issued No Objection Certificate to the petitioner in respect of the lands in Survey No.292/1, 293/1 and 294/1 for a total extent of 9.54 acres. The respondent has taken up a contention in his counter affidavit that the petitioner is not entitled to No Objection Certificate with regard to the remaining extent of 2.52 acres as the same was not the subject matter in W.P.No.16417 of 1998.

Submissions:

6. The learned counsel for the petitioner contended that the petitioner along with the land owners challenged the land acquisition. Since the land acquisition was quashed, the respondent is bound to convey the entire extent to the petitioner.

7. The learned Standing Counsel for the Tamil Nadu Housing Board contended that the petitioner purchased an extent of 2.52 acres in Survey No.293/1 by way of sale deed dated 2 November 2000. The purchase was made after filing writ petition in W.P.No.16417 of 1998 and as such it was not the subject matter of litigation. According to the learned Standing Counsel, the petitioner is not entitled to any relief with respect to the property purchased after filing the writ petition and as such the Tamil Nadu Housing Board was right in rejecting the request to issue No Objection in respect of 2.92 acres in Survey No.293/1.

The core issue:

8. The only question that arises for consideration is whether the petitioner is entitled to the remaining extent of 2.52 acres of land in Survey No.293/1 on the strength of the order dated 30 August 2010 in W.P.No.16417 of 1998.

Discussion:

9. The petitioner along with the land owners filed W.P.No.16417 of 1998 challenging the notification issued by the Government of Tamil Nadu under Section 4(1) and the consequential declaration under Section 6 of the Land Acquisition Act, 1894. It is a matter of record that it was only after issuing notification under Section 4(1) of the Act, the petitioner purchased the remaining property.

10. The affidavit filed in support of the writ petition in W.P.No.16417 of 1998 does not contain the extent of the land in respect of which the said writ petition was filed by the petitioner and other land owners.

11. The affidavit filed in support of the writ petition in W.P.No.16417 of 1998 proceeds as if the petitioners therein were the owners of the land in Survey Nos.292/1, 293/1 and 294/1. They have not disclosed the actual extent of property acquired by the Government. Even the petitioner has not given details of the property purchased from the land owners. There was no discussion in

the order dated 30 August 2010 in respect of the property

acquired from the predecessor-in-interest of the petitioners.

12. The writ petition in W.P.No.16417 of 1998 was filed in September, 1998. It is a matter of record that the petitioner purchased 2.52 acres in Survey No.293/1 only on 2 November 2000. The sale deed No.2876/2000 dated 2 November 2011 shows the purchase made by the petitioner including the extent of land. Therefore it is very clear that the property having an extent of 2.52 acres in Survey No.293/1 was not the subject matter in W.P.No.16417 of 1998.

13. The Tamil Nadu Housing Board rightly granted No Objection Certificate in respect of 9.54 acres. The petitioner has not shown the land subsequently purchased by him as an item in W.P.No.16417 of 1998. The contention that the land owners have challenged the land acquisition and as such it would cover the entire extent has no basis in view of the simple reason that after sale, the original owners have no right in respect of the property. Neither the petitioner nor the land owners disclosed the actual extent involved in W.P.No.16417 of 1998. It is not possible for this Court to adjudicate the larger issues raised by the petitioner in this contempt petition.

14. The direction of this Court in W.P.No.22545 of 2013 was not a positive direction to issue No Objection Certificate to the petitioner. It was a simple direction to consider the matter in the light of the earlier orders.

The respondent on receipt of a copy of the order in W.P.No.22545 of 2013 rightly issued No Objection Certificate to the petitioner with respect to the property covered by the order in W.P.No.16417 of 1998. The respondent is not legally bound to issue No Objection Certificate with respect to a property purchased by the petitioner after filing the writ petition in W.P.No.16417 of 1998. I am therefore of the view that the respondent has not committed any act of contempt punishable under the provisions of the Contempt of Courts Act.

15. In the upshot, I dismiss the Contempt Petition.
No costs.

SD/-
DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER (O.S.)

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

SS/CO/04/01/2016

One CC to Mr.B .Viveka Vanan, Advocate, Sr.No.12160

To

The Chairman cum Managing Director
Tamil Nadu Housing Board
493, Anna Salai
Nandanam