

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2016

CORAM

THE HONOURABLE MR.JUSTICE **M. SATHYANARAYANAN**

Contempt Petition No. 1757 of 2015

&

Sub-Application No. 610 of 2015

K. Balachandran ..Petitioner

Vs.

1. Ms.P. K. Senthil Kumari,
Superintendent of Police of
Vellore District,
Sathuvachri,
Vellore 632 009.
2. Deputy Superintendent of Police,
Katpadi,
Vellore - 632 007,
Vellore District.
3. Loganathan,
Inspector of Police,
Office of the Superintendent of
Police,
Vellore District,
Sathuvachri,
Vellore 632 009.
4. Prakasam,
Head Constable,
Office of Deputy Superintendent
of Police,
Katpadi,
Vellore - 632 007. ..Respondents

Prayer: Petition under Sections 10 & 12 of the Contempt of
Courts Act, 70/71 to punish the respondents for having
committed contempt of Court by disobeying the order dated
08.07.2015 made in W.P. No. 20171 of 2015.

For Petitioner :: Mr.A.U. Ilango

For Respondents:: Mr.V. Subbiah, Special Govt.Pleader

O R D E R

The grievance expressed by the petitioner, at the time of filing the writ petition was that, during the year 2009, there was an attempt made by the police personnel attached to the office of the Deputy Superintendent of Police, Katpadi, Vellore District, to put up construction across the public road, which links MGR Nagar West to Gudiyattam Main Road, thereby preventing the residents of the area from using the public road and after protest, no further attempt was made. But, all on a sudden, at the instance of the 3rd respondent, steps were taken subsequently to put up a compound wall right across the said road, which was likely to cause hindrance to the movements of the residents of that area. In this regard, the petitioner submitted a representation dated 28.06.2015 to respondents 1 to 3 as well as to other top officials. Since the 3rd respondent was proceeding to put up the construction, blocking access of the residents of the locality to the main road, the petitioner came forward to file the writ petition.

2. This Court, upon hearing the rival submissions and without going into the merits of the claim projected by the writ petitioner, had directed the 2nd respondent therein to consider and dispose of the petitioner's representation dated 28.06.2015 in accordance with law, after giving an

opportunity of personal hearing to him and pass orders, within a period of two weeks from the date of receipt of a copy of that order and till then, status quo, as it existed on the date of the order on 08.07.2015, was directed to be maintained. The petitioner, alleging disobedience of the order passed by this Court dated 08.07.2015, has come forward to file this contempt petition.

3. Mr.A.U. Ilango, learned counsel for the petitioner would submit that though this Court had directed the Superintendent of Police, Vellore District, Sathuvachari, Vellore to consider and dispose of the representation of the petitioner dated 28.06.2015, it was not done so and instead, only the 3rd respondent had issued notice and since the order of this Court has not been complied with, in letter and spirit, adequate punishment may be imposed on the contemner and also prays for remedial action.

4. Per contra, Mr.V. Subbiah, learned Special Government Pleader has drawn the attention of this Court to the counter affidavit filed by the first respondent and would submit that permission for constructing a new building for Deputy Superintendent of Police Camp Office cum residence at Katpadi Sub Division in Vellore District was granted by the District collector, Vellore District, vide proceedings in Na.Ka. No. D2/30094/2007 dated 21.04.2010 based on G.O.Ms. No. 219 Revenue (Ni.Mu.4-1) Department dated 26.04.2007 and also, in the light of the proceedings of the District Collector, Vellore, in

Na.Ka.No. Pi6/30094/2007 dated 22.10.2007 and accordingly, steps were taken to construct the same, at which point of time, objection was raised. It is further stated in the counter affidavit that the petitioner was served with summons on 26.07.2015 asking him to appear and accordingly, the petitioner had appeared before the Superintendent of Police, Vellore District, Sathuvachari, on 27.07.2015 at 10.30 hours and his plea was properly heard and he was explained about the entire transaction. The petitioner was further informed that the land, which is being used for construction of compound wall is within the sphere of allotted land by the Government to Police Department, as per the above said G.O., which is also clearly shown in the FMB sketch and plan. Along with the counter affidavit, documents have also been enclosed. It is the submission of the learned Special Government Pleader that since there is a factual dispute as to the usage, the contempt jurisdiction of this Court cannot be invoked to adjudicate the disputed question of fact and prays for closure of the contempt petition.

5. I have carefully considered the rival submissions and perused the materials on record.

6. It is the specific case of the 1st respondent that the land in question has been allotted and necessary permission has also been accorded for putting up a new building for Deputy Superintendent of Police Camp Office cum Residence and the claim of the petitioner is wholly

untenable. In the considered opinion of the Court, whether the land in question is used by the public to have access to the main road and whether the Police Authorities have got necessary permission to put up construction, as stated above, are disputed questions of fact and the same cannot be gone into by this Court in exercise of contempt jurisdiction. Therefore, the contempt petition is closed. Connected Sub-Application is also closed.

7. However, if the petitioner is so advised or if it is open to him under law, he is at liberty to work out his remedy in accordance with law, before the appropriate forum.

nv

SD/
JOINT REGISTRAR (OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

सत्यमेव जयते COURT OFFICER (O.S.)
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CO/28/06/2016

One CC to Government Pleader, SR.957/2016
One CC to A.U.Iilango, Advocate, SR.898/2016