

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

Contempt Petition No.1966 of 2015

T.Sabapathy Chettiar

.. Petitioner

Vs.

1 Mr. A. Karthick
Member Secretary
Chennai Metropolitan Development Authority
Egmore
Chennai 600 008

2 Mr. S. Kumar
Executive Officer
Thirumazhisai Town Panchayat
Thiruvallur District
Chennai - 124

3 Mr. P. Santhilal

.. Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, seeking to summon the respondents and initiate contempt proceedings and punish them in accordance with law for committing of contempt against the order dated 26.03.2015 passed in W.P. No.28993 of 2014.

For petitioner Mr. G.A. Thiagarajan
For R1 Mr. N. Sampath, Standing Counsel
For R2 Mr. P.S. Sivashanmugasundaram
Spl. Govt. Pleader
For R3 Mr. Anand Venkatesh

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Alleging non-compliance of the order dated 26 March 2015

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passed in W.P.No.28993 of 2014, this contempt petition is filed.

2 In respect of illegal construction put up by the third respondent herein in S.No.182/6, Udayavarkoil Village, Thirumazhisai, Thiruvallur District, this Bench, in the aforestated order, directed the Thirumazhisai Town Panchayat, Thiruvallur District, to take action forthwith, after affording opportunity of hearing to the alleged encroacher, within four weeks.

3 On receipt of notice, P. Santhilal, the third respondent herein, came up with a writ petition being W.P. No.10771 of 2016. This Bench disposed of the said writ petition vide order dated 23 March 2016 in the following terms:

"2 The petitioner's case before us is that pursuant to the stop work notice/notice calling for approved plan dated 16 February 2016 issued under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, he has stopped construction. Thereafter, he made a representation to the second respondent on 22 February 2016 undertaking that he would not proceed with further construction, till the plan is regularised under special permission and also requesting the authority to consider his requisition of undertaking and pass suitable orders. Followed by the said representation, he made an application on 02 March 2016 to the second respondent, seeking approval of revised plan, which has been forwarded by the second respondent to the first respondent on the same day itself. It is further submitted that the premises in question shall not be put to any use whatsoever before appropriate permission is granted and in fact, the petitioner has already stopped making construction fully.

3 The learned Standing Counsel for the first respondent submits that appropriate decision on merits and in accordance with law, will be taken within a period of four weeks. In the meantime, the authorities will have supervision of the building in question to ensure that no work is undertaken and also it is not put to any use.

In such view of the matter, we dispose of the writ petition directing the first respondent to take a decision on the petitioner's application within a

period of four weeks, on its own merits and in accordance with law and thereafter, to take further consequential action, if need be. No costs. Connected W.M.P. is closed."

4 The third respondent in the earlier round of writ petition being W.P. No.10771 of 2016 and the petitioner in W.P. No.28993 of 2014, has now come up with this contempt petition stating that the authorities are not adhering to the time schedule and also not taking any action.

5 In response, an affidavit is filed by the second respondent stating as under:

"5. It is humbly submitted that the third respondent submitted application dated 2.5.2013 for building plan to the property situated at 182/6 Udayarkoil Village, Thirumazhisai, Thiruvallur District. The third respondent granted building permission Number 31/2013-14 dated 14.3.2014. The third respondent obtained building approval vide number 31/201314 dated 14.3.2014. The building permission is valid upto 13.3.2017 and the third respondent has constructed only ground floor and the construction of first floor has not been commenced. The building plan was approved for residential purpose only but the constructed portion is used for commercial purpose.

6 It is humbly submitted that the respondent herein issued notice dated 21.3.2016 under section 56(2) sub-clause (iii) and (2A) of Town and Country Planning Act, 1971, wherein, he was directed to discontinue the occupation of the disputed premises within 10 days to enable the authority to carry out the lock and sealing and demolition of the building.

7 In the mean time, the third respondent filed writ petition No.10771/2016 and challenged the aforesaid notice dated 21.3.2016, the Hon'ble High Court by its order dated 23.3.2016, directed not to use the disputed premises till the regularisation obtaining from C.M.D.A. and further directed the respondent herein to supervise the building. The third respondent was duly informed to comply with the order.

8 I once again seek unconditional apology for non compliance of the order within the stipulated time. I rendered 30 years of service and I have not come across any adverse remarks in my service and sincerely and honestly discharging my duties. The delay occurred in complying with the orders of the Hon'ble High Court is neither wilful nor deliberate and wanton. I sincerely seek apology and this delay will not occur in future."

6 Having regard to the order dated 23 March 2016 rendered in W.P. No.10771 of 2016, we close this contempt petition. However, we direct the second respondent herein to close the remaining shops as well forthwith and open the same only for the purpose of removal of articles lying inside, belonging to the tenants and take consequential action, as directed by this Bench, earlier.

cad

SD/-
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

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SMI/CO/25/04/2016

One CC to Mr.G.A.Thiyagarajan, Advocate, SR.4484

One CC to the Government Pleader, SR.4526

One CC to Mr.N.Anand Venkatesh, Advocate, SR 4661

One CC to Mr.C.Johnson, Counsel for CMDA, SR 4545

To

The Executive Officer
Thirumazhisai Town Panchayat
Thiruvallur District
Chennai - 124