

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.02.2016

Coram

The Hon'ble **Mr.Sanjay Kishan Kaul, Chief Justice**

and

The Hon'ble **Mr.Justice M.M.Sundresh**

Contempt Petition No.2571 of 2015

in

W.P.No.27064 of 2015

Essel Walajahpet Poonamallee
Toll Road Private Limited,
NH-4, km:37/800,
Nemili Village Near Sriperumbudur,
Kanchipuram District 602 105 ...Petitioner

Versus

1.M.Balakrishnaswamy
Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai 600 002.

2.Kunjidham Karunanidhi
Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Villupuram Region)
Salamedu, Villupuram - 605602.

3.R.Soundarrajan
Managing Director,
Tamil Nadu State Transport Corporation Ltd., (Salem Region)
12, Ramakrishna Road, Salem 636007.

.. Respondents

Petitions filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for disobeying the order of this Court in W.P.No.27064 of 2014 dated 03.02.2015.

For Petitioner : Mr.P.S.Raman

Senior Counsel for M/s.P.R.Raman

For Respondents : Mr.P.H.Aravind Pandian,

Additional Advocate General

ORDER

(Order of the Court was made by The Hon'ble The Chief Justice)

We have heard the learned counsel for the parties.

2. It is not in issue that there is a separate petition which is pending before the Second Bench *inter alia* dealing with the issue of applicability of Sub-section 3-A of Rule 9 of the National Highways Fee (Determination of Rates and Collection) Rules, 2008. It is the say of the petitioner that in view of the judicial pronouncements already made and the absence of interim stay in those proceedings, the respondents are liable to pay as per the demands raised by the petitioner because the NHAI in turn is demanding the amount on the same basis - as per the Rules of 2008, as they originally stood.

3. We are also given to understand that the said matter is listed for hearing on 15/16.02.2016.

4. In contempt jurisdiction, we can only examine whether there is wilful default. We believe this is the matter where either those writ petitions have to be finally adjudicated or an interim arrangement made in view of the submission of the petitioner that there has to be equitable balance between NHAI, the petitioner and the respondents - the writ petitioner cannot be made to pay to NHAI on one principle, while the respondent pays the petitioner on another principle.

5. We thus give liberty to the parties to invite an order from that Bench on this issue, in case the matter cannot be finally heard.

The contempt petition accordingly stands disposed of.
No costs.

SD/-
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

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RLD/CO/22/3/2016

One CC Mr.P.R.Raman, Advocate S.R.1776/2015

One CC Mr.Paramasivadoss, Advocate S.R.2070/2015

To

1.M.Balakrishnaswamy
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