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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) No.1067 of 2016

C.Christober

... Appellant/Petitioner

Vs.

1.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

2.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

3.P.Selvaraj

... Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the Order dated 08.11.2010 made in W.P.(MD).No.2383 of 2010 on the file of this Court.

Prayer in WP(MD). 2383/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI, calling for the records of the urgent notice vide ... A6/17023/09, dated 20-02-2010 by the second respondent against the petitioner, quash the same.

For Appellant : No appearance

For Respondents 1&2 : Mr.M.Alagadevan,

Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by **NOOTY.RAMAMOHANA RAO, J**)

None appears for the appellants.

2.This appeal is preferred by the writ petitioner calling in question the correctness of the order passed by the learned single Judge on 08.11.2010 in W.P.(MD)No.2383 of 2010 instituted by him.

<https://hcservices.ecourts.gov.in/Hcservices> relevant to notice that a certain extent of land belonging to the third respondent has been encroached upon by the petitioner and two others by locking the pathway on the eastern



side of the property of the third respondent. By resorting to such an action, the ingress and egress was obstructed. As a result, the third respondent has preferred a civil suit in O.S.No.361 of 2005 before the District Munsif Court at Padmanabhapuram seeking a permanent injunction to restrain the appellant/writ petitioner and two others from preventing access to the pathway lying on the eastern side of the property of the third respondent herein. That suit was decreed. In spite of the decree and in spite of request made to remove the encroachments, the appellant/writ petitioner has not honoured the said decree. On the other hand, they went ahead on 27.02.2007 by constructing the compound wall across the pathway. Thus, the appellant/writ petitioner and two others have acted contrary to the permanent injunction granted by the Civil Court on 31.07.2006. The only reason the appellant/writ petitioner could offer for his otherwise objectionable conduct was that he has filed an application for recall of the *ex-parte* decree in the suit in O.S.No.361 of 2005 and the same is still pending. In our opinion, the appellant/writ petitioner is not bearing appropriate conduct for us to show any indulgence in his cause. The appellant/writ petitioner was a party defendant to the civil suit in O.S.No.361 of 2005 on the file of the District Munsif Court at Padmanabhapuram instituted by the third respondent. That suit was decreed on 31.07.2006. In spite of the same, the appellant/writ petitioner with the support of two others has constructed a compound wall across the pathway on 27.02.2007.

4. So long as the decree of injunction granted by the competent authority of jurisdiction is subsisting and is not set aside at the instance of the appellant/writ petitioner, he is bound to honour the said injunction. A person who deliberately violates an injunction granted by the Civil Court cannot approach this Court and seek its indulgence in exercise of jurisdiction under Article 226 of the Constitution.

5. In view of lack of the *bona fide* conduct on the part of the appellant/writ petitioner, there is no way that this Court could have come to his rescue. For the aforementioned reasons, we do not find any merit in this writ appeal and accordingly, it is dismissed. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar



To

1.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

2.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

+1cc to Mr.C.T.PERUMAL,Advocate Sr.No.85499
SMS
AA/DB/14.07.2016/3p-4c

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