

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.SUNDAR

Contempt Appeal No.3 of 2017

and

C.M.P.No.6561 of 2017

Mr.K.Phanindra Reddy, I.A.S.,
The Principal Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and Water Supply
Department,
Fort St. George,
Chennai-600 009. ... Appellant/1st Respondent

Vs.

1.C.Lawrence ...1st Respondent/Petitioner

2.Dr.B.Chandramohan, I.A.S.,
Principal Secretary and Commissioner,
Greater Chennai Corporation,
Park Town,
Chennai-600 003. ...2nd Respondent/2nd Respondent

Contempt Appeal filed under Section 19 of the Contempt of
Courts Act challenging an order passed in Contempt Petition
No.1524 of 2016 in W.P.No.9082 of 2016, dated 13.3.2017.

For Appellant : Mr.C.Manishankar,
Additional Advocate General
assisted by Mr.T.N.Rajagopalan, Spl.G.P.

- - - -

JUDGMENT

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

This appeal is against an order dated 13th March, 2017 passed by the learned Single Judge in a petition for contempt for non compliance of an order dated 11th March, 2016, whereby the writ petition filed by the respondent No.1 was disposed of with the following directions :

"4.Considering the fact that charges levelled against the petitioner are disproved in favour of the petitioner, the first respondent is directed to pass appropriate orders on the basis of the recommendation made by the second respondent, in accordance with law, within a period of three weeks from the date of receipt of a copy of this order.

5.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected W.M.Ps are also dismissed."

2 From the order under appeal, it appears that the order dated 11th March 2016, of which violation had been alleged had been complied with, but there had been delay in compliance of the order of the learned single Judge.

3 It further appears from the order under appeal that the appellant had been directed to appear in Court on 13th March, 2017 to show cause why action should not be initiated against him for wasting the precious time of the Court for about a year in implementing the order dated 11th March, 2016. The appellant filed an affidavit dated 10th March, 2017 tendering unconditional apology and also appeared in Court at the time of hearing of the contempt petition, as directed. The learned Single Bench observed and held as follows :

"9.In addition thereto, without even filing any affidavit of unconditional apology by the first respondent, when the matter was taken up on 20.02.2017, the learned Additional Advocate General produced a copy of the proceedings dated 17.02.2017 passed by the second respondent and in the said proceedings, the contemnor has stated in paragraph 2 of the last page thereof that this Court had insisted upon the contemnor to comply with the order, therefore, the said proceeding has been passed dropping the charges levelled against

him. By taking note of the improper wordings employed therein, this Court directed the second respondent / contemnor to appear before this Court on 22.02.2017 to show cause as to why action should not be initiated against him for not complying with the order of this Court. Accordingly, when the matter was taken up on 22.02.2017, Dr.D.Karthikeyan I.A.S., Commissioner, Chennai Corporation, appeared before this Court by filing an affidavit dated 17.02.2017 tendering unconditional apology for such wordings.

12.It is the duty of the Court to uphold and maintain the dignity of the Court. The Court should not hesitate to enforce its own order by exercising the power of contempt, whenever there is an instance like the one on hand. Otherwise, not only the person, in whose favour the order, judgment or decree is passed will be losing his confidence in the Court, but also the entire proceedings will be rendered naught and meaningless, consequently, the sanctity of the Court's proceedings would be rendered to mockery and an empty formality.

13.Therefore, in view of the above said judgment and also in terms of the order passed by the Hon'ble First Bench in K.K.Ramesh's case (cited supra), although this Court can direct the Government to initiate departmental action against the first respondent / contemnor, by refraining from doing so, this Court is constrained to impose Rs.50,000/- as costs on the first respondent. Accordingly, by imposing such cost, this Court further directs the first respondent to pay the said sum to the Tamil Nadu Legal Services Authority, Chennai, within a period of four weeks from the date of receipt of a copy of this order."

4 Under the Contempt of Courts Act, 1971, a contemnor may be penalized by imprisonment in civil prison for a period of 6 months or alternatively be fined Rs.2,000/- for civil contempt of violation of an order.

5 In contempt proceedings, the Court is required to adjudicate and decide the question of whether there has been willful, deliberate and contumacious violation of an order of Court and upon such finding, impose a penalty. In contempt proceedings, orders may also be passed for the prevention of

further contempt by issuance of directions, which ensure compliance of an order, violation of which is alleged. In proceedings for contempt, there is no scope for imposition of costs on the contemnor for delay in compliance of an order of Court. It is well settled that the scope of the original order cannot be expanded in contempt proceedings.

6 As contempt is basically a matter between the court and the alleged contemnor and the role of the applicant for contempt is in the nature of that of an informant, we do not deem it necessary to call upon the petitioner in the contempt petition to make submissions.

7 The appeal is allowed to the extent that the Court has imposed costs of Rs.50,000/- on the first respondent in the contempt petition / appellant herein. Since as recorded in the order under appeal, the contempt petition is being directed to be posted only for reporting compliance of the direction with regard to the deposit of costs, the contempt proceedings shall stand dropped. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

vvk

To

1.Principal Secretary and Commissioner,
Greater Chennai Corporation,
Park Town,
Chennai-600 003.

2.The Section Officer
Judicial Section High Court,
Madras

3.The Section Officer
Contempt Section High Court
Madras

Cont. Appeal No.3 of 2017

vgl(co)
aa09/05/2017