

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2017

Coram :

The Honourable Mr. Justice C.T. SELVAM
and
The Honourable Mr. Justice M.V. MURALIDARAN

Contempt Appeal No. 7 of 2017

Tmt. Ve. Selvi
W/o/ Mr. S. R. Venkatachalam

...Appellant

Versus

1. Mr. P. Murugesan,
The Revenue Divisional Officer,
Kumaran Road, Taluk, Office Compound,
Tiruppur.
2. Mr. T. R. Sivaram,
S/o. Rasappa Gounder

...Respondents

This Contempt Appeal is filed under Section 19(1) of the Contempt of Court Act praying to punish the respondents for committing contempt of Court of the order of the Learned Single Judge dated 28.07.2017 made in Contempt Petition No.2034 of 2016 and Sub Application No.434 of 2016.

Petition under section 12 of Contempt of Court Act it is also prayed that this Hon'ble Court may be pleased to punish the respondents under the provisions of contempt of Court Act for the willful violation and disobedience of the order passed by this Hon'ble Court dated 9.8.16 made in WMP.No.23837 of 2016 in WP.No.27670 of 2016.

WMP.No.23837 of 2016:Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an order of stay of all further proceedings in appeal filed by the 5th respondent pending before the 3rd respondent in Na.Ka.No.8/2016, (in WMP.No.23837/2016) pending disposal of the above WP.No.27670/2016.

WP.No.27670/2016:Writ of Mandamus by directing the 3rd respondent herein not proceed with the appeal pending before him in Na.Ka.No.8/2016 filed by 5th respondent until such time the Civil Court proceedings are finally disposed off by the Civil Court in

O.S.No.62 of 2015 in II Additional District Court at Tiruppur.

For Appellant : Mr. M. Balachandar

J U D G M E N T

(Judgment of the Court was delivered by C. T. SELVAM, J.,)

This Contempt Appeal arises against the order of Learned Single Judge dated 28.07.2017 made in Contempt Petition No.2034 of 2016 and Sub Application No.434 of 2016.

2. Complaint of appellant/contempt petitioner is that first respondent has disobeyed the order of this court passed in W.M.P.No.23837 of 2016 in W.P.No.27670 of 2016 dated 09.08.2016 and the grant of an order of Interim Stay till 21.09.2016 thereunder. The violation complained of is that first respondent had conducted proceedings in an appeal before him till 1.30 p.m on 08.08.2016 and in a blatant attempt of over reach passed orders on 09.08.2016. Voluminous nature of appeal papers consisting 91 documents and a 17 page counter would not have allowed a decision on merits on 09.08.2016, when proceedings in appeal before first respondent had stretched upto 1.30 pm the previous day.

3. Learned counsel submitted that first respondent has passed an order directing transfer of patta in favour of Sivaram, second respondent herein and towards making it appear that the order came to be passed in ignorance of the order passed in W.M.P.23837 of 2016 in W.P.No.27670 of 2016, dated 09.08.2016.

4. Learned counsel contended that appellant under affidavit dated 24.11.2017 has informed that order passed in W.M.P.No.23837 of 2016 in W.P.No.27670 of 2016 at 11:00 a.m., on 09.08.2016 was sought to be communicated to first respondent by way of a letter but the same was refused. We find no proof for such contention and on a perusal of first respondent affidavit, it is seen that the communication informing interim stay was sent by the appellant/contempt petitioner through Registered Post with Acknowledgment on 09.08.2016 and received by the first respondent only on 10.08.2016.

5. Learned Single Judge taking note of the position informed by learned Special Government Pleader that the order of the first respondent dated 09.08.2016 came to be passed in ignorance of the order in W.M.P.No.23837 of 2016 in W.P.No.27670 of 2016 on the same date, has closed the contempt petition. We find no reason to suspect any wrong doing on the part of first

respondent and we would not issue notice on contempt on mere presumptions. In any event, an appeal would lie only against an order of punishment in Contempt. This very appeal is not maintainable.

6. Accordingly, this Contempt Appeal shall stand dismissed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Registration Department,
Fort St. George,
Chennai 600 009

2.The Inspector General of Registration
100, Santhome High Road,
Santhome,
Chennai 600 028

3.The Revenue Divisional Officer
Kumaran Road, Taluk Office Compound,
Tiruppur

+1cc to Mr.M.Balachandar, Advocate SR.NO.83869

MG(CO)
sm:25.9.2018

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