

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.06.2017

CORAM

THE HONOURABLE MR. JUSTICE **N. KIRUBAKARAN**

Contempt Petition No.516 of 2017

Mr.P.Gopinathan

..Petitioner

Vs.

1.Mr.P.Thulasiraman

The Block Development Officer /
Superintendent (Admin.),
O/o. Assistant Director (Audit),
Salem-636 001.

2.Mr.R.Kumar,

S/o.Ramasamy,
Managing Partner, M/s.M.C.M. & Co.,
Metturpalayanur, Karungallur P.O. Mettur Taluk,
Salem District - 636 303.

3.Tmt.Thangam.

4.The Director,

The Highway Research Station,
Guindy, Chennai-32.

..Respondents

(Fourth respondent is suo-motu impleaded
as per order dated 05.04.2017
made in Cont.P.No.516 of 2016)

Prayer: Petition under Section 11 of the Contempt of
Courts Act, 1971 to punish the respondents for willfully
disobeying the order dated 30.06.2016 passed in
W.P.No.34990 of 2015.

For Petitioner :: Mr.S.Ilamuhil

For Respondents :: Mrs.P.Kavitha for R-1
Mr.M.E.Jothimanian for R2 and R3
Mr.M.Elumalai
Government Advocate for R4

O R D E R

This Contempt Petition has been filed, alleging that the order of this Court in W.P.No.34990 of 2015, dated 30.06.2016 has been violated.

2. Heard the learned counsel on either side.

3. This Court, directed the first respondent in the Writ Petition, to refer the works, viz., Work A, Work B and Work C to the second respondent in the Writ Petition, for inspection and testing within a period of eight weeks from the date of receipt of a copy of this order. Till the assessment of the quality of the works executed, is completed on re-inspection, further work shall not be proceeded with by the fourth and fifth respondents in the Writ Petition. This Court, further directed the third respondent in the Writ Petition to make payments to the respondents 4 and 5 in the Writ Petition, after getting a bank guarantee from the respondents 4 and 5.

4. It is alleged that the first respondent in the Contempt Petition, who was the third respondent in the Writ Petition, paid the money payable to the respondents 2 and 3 in the Contempt Petition, who are all respondents 4 and 5 in the Writ Petition without getting a bank guarantee from the respondents 2 and 3. Moreover, it is alleged that the second respondent in the Writ Petition did not conduct the inspection to assist the quality of the work executed. The fourth respondent already filed a report, after inspection,

regarding the quality of the work executed by the second and third respondents herein. Therefore, the contention made by the petitioner in this regard is not acceptable. However, this Court in paragraph No.7 of the order, dated 30.06.2016, directed the first respondent herein to make payment, after getting bank guarantee. Paragraph No.7 of the order dated 30.06.2016, is extracted as follows:-

"7. Since it is submitted that for the work already executed by respondents 4 and 5, they are entitled to payment, it is appropriate to direct the third respondent to process the bill claim of the fourth and fifth respondents, as per law. If the third respondent decides to pay the eligible amount to the above said respondents, then, in that event, he shall inform the details of the same to the fourth and fifth respondents within a period of two weeks and thereafter, the third respondent shall make the payment after getting a bank guarantee from each of respondents 4 and 5, equivalent to the amount to be disbursed to them."

From the above, it is clear that the bank guarantee should be obtained for making the payment. However, it is proved before this Court that the first respondent made payment to the second and third respondents, without getting bank guarantee and only obtained undertaking from the second and third respondents, which is nothing but violation of the order passed by this Court.

5. Taking into consideration of the report filed by the fourth respondent that the work executed by the second and third respondents is with quality, this Court is inclined to impose costs to be paid by each of the respondents as follows, for violating the order passed in the Writ Petition:-

(i) The first respondent shall pay a sum of Rs.20,000/- [Rupees Twenty Thousand only], to P.T.Lee Chengalvaraya Naicker Orphanage, Vepery, Chennai-7.

(ii) The respondents 2 and 3 shall jointly pay a sum of Rs.20,000/- [Rupees Twenty Thousand only] to the Karunalaya Karunai Illam, Four Road, Kolathur, Mettur Taluk, Salem - 636 303.

6. The Contempt Petition is disposed of in the above terms. Call the matter for reporting compliance on 30.06.2017.

सत्यमेव जयते

SD/-

JOINT REGISTRAR(OS) I/C

rns

//Certified to be true copy//

WEB COPY

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

1.Mr.P.Thulasiraman

The Block Development Officer /
Superintendent (Admin.),
O/o. Assistant Director (Audit),
Salem-636 001.

2.Mr.R.Kumar,

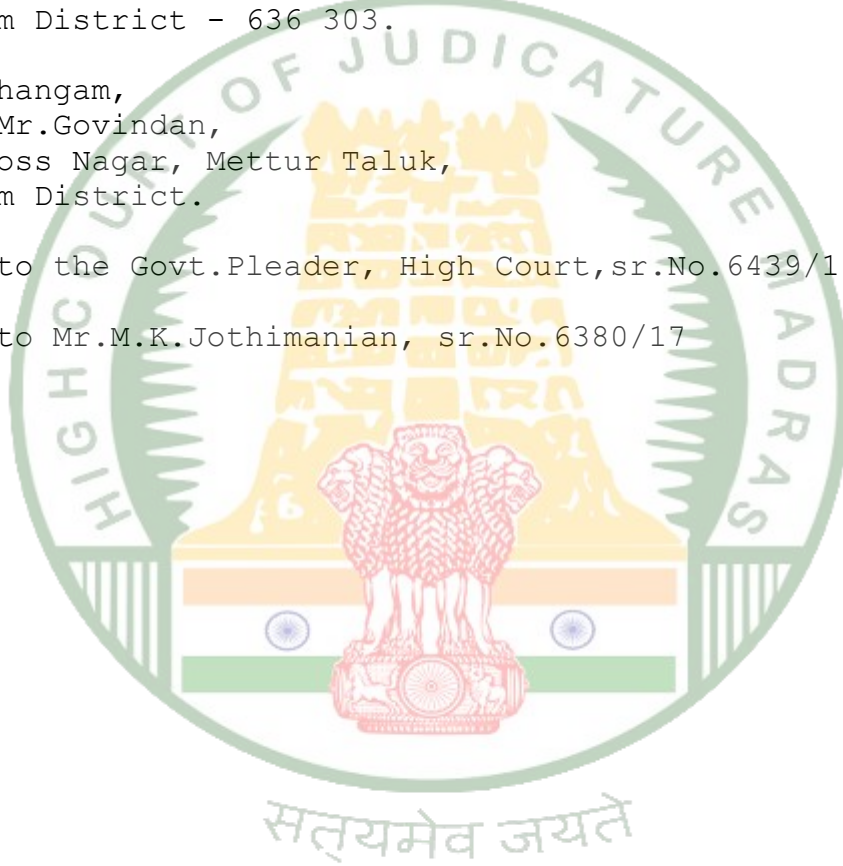
S/o.Ramasamy,
Managing Partner, M/s.M.C.M. & Co.,
Metturpalayanur, Karungallur P.O. Mettur Taluk,
Salem District - 636 303.

3.Tmt.Thangam,

W/o.Mr.Govindan,
Ramdoss Nagar, Mettur Taluk,
Salem District.

one cc to the Govt.Pleader, High Court,sr.No.6439/17

one cc to Mr.M.K.Jothimanian, sr.No.6380/17



WEB COPY