

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Contempt Petition No. 2757 of 2016

Kannammal

.. Petitioner

Versus

Thiru. Selvarajan, B.E.,
Executive Engineer cum Administrative Officer
Tamil Nadu Housing Board
Iyanthirumaligai
Salem – 636 008

.. Respondent

Contempt Petition filed under Section 11 of The Contempt of Courts Act, praying to punish the respondent for his wilful and flagrant violation of the order dated 29.04.2016 made in WP No. 16559 of 2016.

For Petitioner : Mr. C. Prabakaran

For Respondent : Mr. V. Anandamoorthy

ORDER

The petitioner has come forward with this Contempt Petition complaining non-compliance of the order dated 29.04.2016 passed by this Court in WP No. 16559 of 2016.

2. The said Writ Petition No. 16559 of 2016 was filed by the petitioner by contending that he is the owner of the land comprised in Survey No.94/4 measuring an extent of 49 cents situated in Iyamperumalpatti Village, Salem Taluk and he was in possession and enjoyment of the said land from the date of purchase namely 12.08.1980. While so, the said land was sought to be acquired by the Government

for the purpose of implementing the neighbourhood scheme at the instance of the respondent, being the requisitioning body. Challenging the acquisition proceedings on the ground that the mandatory procedures contemplated under the Tamil Nadu Land Acquisition Act have not been followed by the respondents therein, the petitioner filed WP No. 9566 of 1986. The said writ petition was allowed on 16.11.1996 against which the respondents therein filed a Writ Appeal in W.A. No. 33 of 2003. The Division Bench, while allowing the writ appeal on 16.06.2006, remanded the matter to the Writ Court to decide the writ petition on merits. According to the petitioner, in the interregnum, third parties have attempted to encroach upon a portion of the land which was acquired by him and attempted to construct a temple thereon. When the petitioner has informed the respondent about the unauthorised attempt by the encroachers, the respondent refused to take any action by citing the pendency of the writ petition. According to the petitioner, the respondent has taken possession of the lands owned by him by resorting to acquisition proceedings, however, the respondent failed and neglected to protect the land from being encroached by the third parties. Therefore, the petitioner has approached this Court by filing the above WP No. 16559 of 2016 praying for a Writ of Mandamus directing the respondent to consider his representation dated 18.04.2016.

3. When the WP No. 16559 of 2016 was listed for hearing, this Court, after hearing the counsel for both sides, disposed of the writ petition by order dated 29.04.2016 and directed the respondent herein to consider the representation dated 18.04.2016 of the petitioner by conducting an enquiry and pass orders thereon after affording an opportunity of hearing to the petitioner and other parties

concerned. As the said order dated 29.04.2016 passed in WP No. 16559 of 2016 has not been complied with by the respondent, after sending a pre-contempt notice dated 21.09.2016 requesting the respondent to comply with the order dated 29.04.2016, the petitioner has filed the present contempt petition.

4. The respondent has filed a counter in the above Contempt Petition contending *inter alia* that for having acquired the land in Survey No.94/4 measuring 3.29 acres from the petitioner, after complying with the formalities, an award No.11/86-87 was passed and a total compensation amount of Rs.1,84,888.70 was deposited before the Sub Court, Salem to the credit of LAOP No. 157 of 1988. It is further stated that as far as the grievance of the petitioner that the land is sought to be encroached by the third parties, based on the directions issued by this Court in the order dated 29.04.2016 in WP No. 16559 of 2016, a letter dated 05.07.2016 was sent to the petitioner calling upon him to appear for an enquiry. After conclusion of enquiry, the Tamil Nadu Housing Board, Salem Housing Unit sent a letter dated 25.07.2016 to the Special Tahsildar, Neighbourhood Scheme, Land Acquisition, Salem stating that possession of the land in Survey No.94/4 has not been handed over to the Housing Board and requested to take necessary action to remove the encroachment through the Tahsildar and Revenue Divisional Officer, Salem and also to handover the possession of the lands to them. Further, this respondent has also sent a letter dated 15.09.2016 addressed to the Inspector of Police, Kannankurichi Police Station, Salem requesting to take necessary action to prevent unauthorised construction of Mariyamman Temple in the land in question.

On the basis of the letter dated 15.09.2016, the Inspector of Police, Kannankurichi inspected the encroached area on 24.09.2016. It is further stated that the steps

taken by the respondent to prevent encroachment of the land were also intimated to the petitioner by a letter dated 26.09.2016. Thereafter, by another letter dated 26.09.2016 addressed to the Inspector of Police, Kannankurichi Police Station, Salem, the respondent has requested to take necessary steps to stop unauthorised construction in the land which was the subject matter of the award No.11/86-87. Along with the letter dated 26.09.2016, the respondent has also enclosed the copy of the award and also the Patta which stood transferred in the name of the Tamil Nadu Housing Board, Salem Housing Unit, Salem. Therefore, according to the respondent, necessary steps are being taken for removal of the unauthorised construction put up by the third parties and therefore, it was prayed that the respondent has not in any way violated the directions issued by this Court in the order dated 29.04.2016 made in WP No. 16559 of 2016.

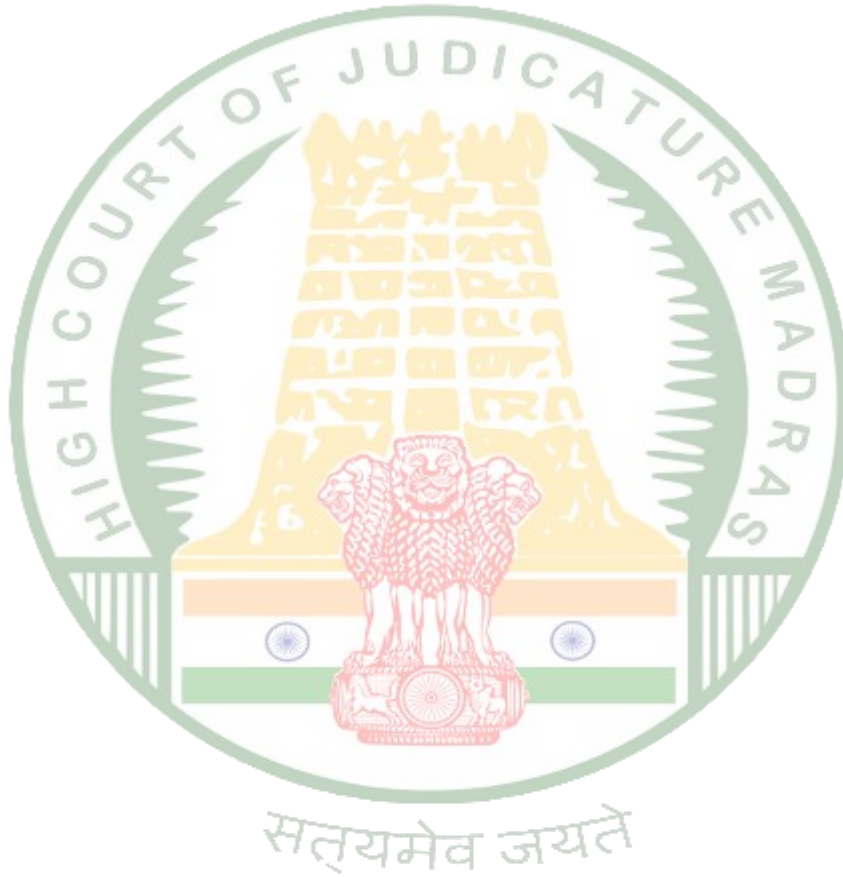
5. Heard the counsel for both sides and perused the materials placed on record. By the order dated 29.04.2016, this Court directed the respondent to consider the representation of the petitioner dated 18.04.2016, conduct an enquiry and to pass orders thereon. In the said representation, the petitioner has complained that the land, which was acquired from him, is being encroached by third parties for constructing a temple. As per the directions issued by this Court, the respondent has also conducted an enquiry on 05.07.2016 in which the petitioner has participated. In the counter affidavit, the respondent has also highlighted the steps taken for removal of the encroachment. Further, a letter dated 26.09.2016 was sent intimating the petitioner about the steps taken by the respondent to remove the encroachments. In such view of the matter, this Court is of the view that there is no disobedience on the part of the respondent in complying

with the order dated 29.04.2016 passed in WP No. 16559 of 2016.

6. In such circumstances, no further order is required to be passed in this contempt petition. Accordingly, the contempt petition is closed. No costs.

28-07-2017

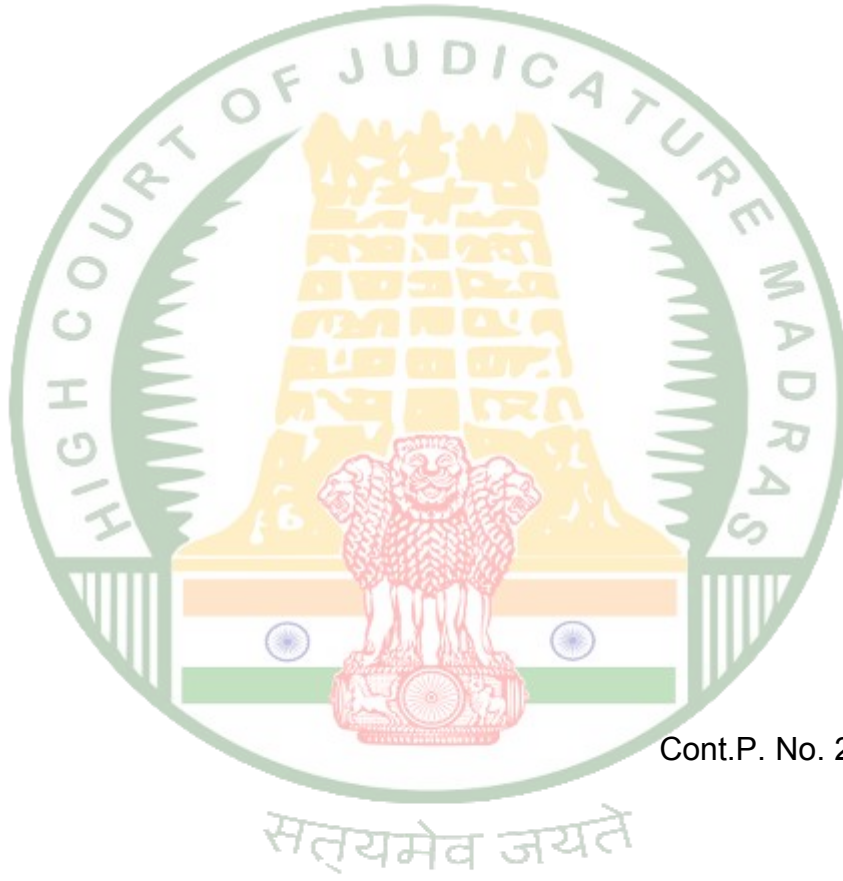
rsh



WEB COPY

R. SUBBIAH, J

rsh



Cont.P. No. 2757 of 2016

WEB COPY

28-07-2017