



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2017

CORAM:

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
AND
THE HON'BLE MR.JUSTICE P.N. PRAKASH

CONT.A.(MD) No.2 of 2014

J.Sankaran ...Appellant/6th Respondent
vs.

N.Meenakshi ...Respondent/Petitioner

Contempt Appeal filed under Section 19(1) of Contempt of Courts Act, 1971 against the order dated 18.11.2014 passed by this Court in Contempt Petition (MD) No.394 of 2013 in W.P.(MD) No.499 of 2011.

Prayer in CONT P(MD). 394/ 2013 :

To punish the respondents 3 to 6 for Contempt of Court for their willful and deliberate disobedience of the order passed by this Honourable Court in W.P.No.499 of 2011 dated 08.11.2011.

Prayer in WP(MD). 499/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order of the 1st respondent vide proceedings Ref.O.Mu.R.T.Nir 4963/2010 dated 08/11/2010 refusing to effect sub-division, quashes the same and consequently direct the 2nd respondent not to register any instrument of conveyance or encumbrance in respect of property in S.No. 45/1A1A1A situated at Korkai village, Srivaikundam Taluk, Tuticorin district till such time the sub-division of the survey Number according to the entitlement of sharers by virtue of the final decree in O.S.No. 63/2008 on the file of Sub-Court, Tuticorin is effected by the 1st respondent .

For petitioner Mr.T.Antony Arul Raj
For Respondent Mr.V.Balaji

ORDER

(Order of the Court was made by P.N.PRAKASH, J.)

This Contempt Appeal is filed against the order dated 18.11.2014 passed by this Court in Contempt Petition (MD) No.394 of 2013 in W.P.(MD) No.499 of 2011.



2. For the sake of convenience, the parties will be referred to by their name.

3. Meenakshi filed W.P.(MD)No.499 of 2011 against five respondents, including the Sub-Registrar, Eral Sub Registrar's Office, Srivaikundam Taluk with the following prayer:

"Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order of the 1st respondent vide proceedings Ref.O.Mu.R.T.Nir. 4963/2010, dated 8.11.2010 refusing not to register division, quash the same and consequently direct the 2nd respondent not to register any instrument of conveyance or encumbrance in respect of property in S.No.45/1A1A1A situated at Korkai village, Srivaikundam Taluk, Tuticorin District till such time, the sub division of the survey number according to the entitlement of sharers by virtue of the final decree in O.S.No.63 of 2008 on the file of the Sub Court, Tuticorin is effected by the 1st respondent."

In W.P.(MD)No.499 of 2011, a learned single Judge of this Court passed final orders on 08.11.2011, the operative portion of which is as under:

"8.Under the said circumstances, the impugned order is stand set aside and the matter is remitted to the first respondent for making a decision in accordance with Section 10 of the Tamil Nadu Patta Book Act after due notice to the objectors if any. This exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order and till such time, the second respondent shall be restrained from the registration of any document in respect of S.No.45/1A1A1A situated at Korkai Village, Srivaikundam Taluk.

9.The writ petition stands allowed to the extent indicated above. In view of the above, the miscellaneous petition is dismissed."

4. It is alleged by Meenakshi that one U.Brammasakthi submitted a document for registration on 18.11.2011 in respect of the property referred to in W.P.(MD)No.499 of 2011, which was served to the Sub-Registrar, Eral Sub-Registrar's Office and therefore, he has committed contempt of Court. Hence, Meenakshi filed Contempt Petition (MD) No.394 of 2013, in which,



this Court ordered notice to Sankaran, Sub Registrar. Sankaran entered appearance and filed a counter affidavit, wherein, he has stated as follows:

"6. It is humbly submitted that a document pending for registration vide P.78 of 2011 dated 18.11.2011 registered by one U.Brammasakthi. It is submitted that the Hon'ble court has directed the Tahsildar Srivaikuntam taluk to decide the claim of the writ petitioner within a period of 8 weeks only. It is submitted that the time limit of 8 weeks as ordered by the Hon'ble Court has been over by 02.01.2012 itself. As such the document is kept pending for more than 1-1/2 years. The said document was registered as Document No.37 of 2013 on 18.01.2013 and the same was returned to the executed as per the registration rules. It is respectfully submitted that the document was kept pending in Document No.P.78 of 2011 from 18.11.2011 onwards due to the orders of the Hon'ble High Court Madurai Bench. The Hon'ble High Court has allowed the writ petition on 08.11.2011 and remitted the matter to the Tahsildar, Srivaikuntam Taluk for making a decision in accordance with section 10 of the Tamil Nadu Patta Pass Book Act after due to notice within a period of 8 weeks from the date of receipt of the order. The time stipulated by the Hon'ble court has already been expired and the Tahsildar, Srivaikuntam taluk to whom the matter was remitted back for enquiry has not passed any orders due to various factors. The document which is kept pending as P78 of 2011 from 18.11.2011 for want of orders of the Tahsildar. The Hon'ble High Court has allowed the writ petition on 08.11.2011 by granting 8 weeks time for disposal of the matter as per the provisions of the Act. As the time granted by the Hon'ble Court has been lapsed and the registration authorities cannot keep the document pending in the absence of specific orders of the court, this respondent has registered the said pending document on 18.01.2013 as Document No.37/2013."

5. The explanation offered by Sankaran did not find favour with the learned single Judge who has held him guilty of contempt of Court under Section 12 of the Contempt of Courts Act and imposed a fine of Rs.1,000/-, challenging which, Sankaran is before this Court.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Heard the learned counsel for Sankaran and the learned counsel for Meenakshi.



7. On a reading of the operative portion of the order passed by the learned single Judge of this Court in W.P.(MD)No.499 of 2011, which has been extracted above, it is clear that the learned Judge has directed the Tahsildar to complete the enquiry under Section 10 of the Tamil Nadu Patta Pass Book Act within eight weeks from the date of receipt of a copy of the order and till such time, the Sub-Registrar was restrained from registering any document in respect of Survey No.45/1A1A1A in Korkai Village, Srivaikundam Taluk.

8. The fact remains that though Brammasakthi submitted the document on 18.11.2011, the Sub Registrar did not register the document for 1-1/2 years. Only thereafter, the document was registered as Document No.37 of 2013 on 18.01.2013. Therefore, it cannot be stated that act of the Sub Registrar in registering the document that was presented on 18.11.2011 only on 18.01.2013 to be wilful disobedience of the Court order. The learned single Judge has declared the document as null and void. In our opinion, the order of the learned single Judge in declaring the Doc.No.37/13 as null and void even without hearing the parties to the document, is not sustainable. The explanation offered by Sankaran, Sub Registrar for registering the document after waiting for 1-1/2 years cannot be said to be unacceptable. For punishing a person for Contempt, it must be shown that his conduct was in wilful disobedience of the order of the Court. Had Sankaran registered the document within the eight week period stipulated in the order dated 08.11.2011 in W.P.(MD) No.499 of 2011, things would have been different. He waited for 1-1/2 years and only thereafter, registered the document. We are inclined to accept the explanation offered by Sankaran, Sub Registrar and exonerate him of the charges.

9. In the result, the contempt appeal is allowed and the order dated 18.11.2014 passed by the learned single Judge in Contempt Petition (MD) No.394 of 2013 declaring the Doc.No.37/13 as null and void, and holding Sankaran guilty and sentencing him are set aside. It is open to the parties aggrieved by the registration of Doc.No.37/13 to work out their remedies before the appropriate forum.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

+1cc to M/s. NIRANJAN S.KUMAR Advocate in SR. No.53908

GMS

JS/MR/15.05.2017/4P-2C

CONT. A. (MD) No.2 of 2014

25.04.2017