

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

Cont. Petition Nos.1324 of 2017 & 613 of 2018
in W.P.No.10172 of 2013
and M.P.No.1 of 2013
Sub.Application(OS) No.26 of 2018

Cont.Petition No.1324 of 2017

Mrs.Madan Kanvar ... Petitioner

vs.

Muruganandham
Tahsildar,
Madhavaram,
Tiruvallur District ... Respondent

Petition filed under Section 11 of Contempt of Courts Act to punish the Respondent for disobedience of the order passed by this Hon'ble Court in M.P.No.1 of 2013 in W.P.No.10172 of 2013 dated 23.01.2015.

Cont.Petition No.613 of 2018

Mrs.Madan Kanvar .. Petitioner

vs.

Muruganandham
Tahsildar,
Madhavaram,Tiruvallur District .. Respondent

Petition filed under Section 11 of Contempt of Courts Act to punish the Respondent for wilful disobedience of the order passed by this Hon'ble Court in Contempt No.1324 of 2017 dated 12.01.2018.

W.P.No.10172 of 2013

1.Suparas Chand
2.Mrs.Madan Kanvar
3.Ashok Kumar
4.Dilip Kumar

.. Petitioners

vs.

1. The District Collector,
Tiruvallur,
Tiruvallur District.
2. The District Revenue Officer,
Tiruvallur,
Tiruvallur District.
3. The Revenue Divisional Officer,
Ambattur,
Madhavaram Taluk,
Tiruvallur District.
4. The Tahsildar,
Madhavaram,
Tiruvallur District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents not to dispossess the Petitioners from the agricultural lands in Punja Survey No.(1)270/1 to an extent of 1 Acre and 30 Cents;(2) Survey No.239 to an extent of 1 Acre and 66 Cents, (3) Survey No.244/1A to an extent of 74 Cents, (4) Survey No.118 to an extent of 68 Cents, (5) Survey No.119 to an extent of 76 Cents, (6) Survey No.261/1 to an extent of 60 Cents, (7) Survey No.261/2 to an extent of 71 Cents and (8) Survey No.120/1 to an extent of 1 Acre and 57 Cents all situated in Puzhal Village, Tiruvallur District without due process of law.

For Petitioners
(in all petitions) .. Mr.A.Thiagarajan,
Senior Counsel
for M/s.M.Vijayakumar

For Respondents
(in all petitions) .. Mr.M.Elumalai,
Government Advocate

COMMON ORDER

In view of the commonality of the issues involved coupled with the fact that the writ petition is also directed to be posted along with the contempt petitions, they have been taken up together and disposed of by a common order.

2.The petitioners herein earlier filed a writ petition in W.P.No.10172 of 2013 seeking a writ of mandamus directing the respondents not to dispossess them from the agricultural lands situated in Puzhal Village, Thiruvallur District without due process of law. This writ petition was filed on the premise that the petitioners are the owners of the property.

3.This Court, by taking note of the fact that the respondents have not filed any counter affidavit, was pleased to make the order of status quo absolute and posted the writ petition for final hearing in the first week of April 2015.

4.It appears that in the year 2013 itself, the classification of the land was restored by the respondent

viz., Tahsildar, Madhavaram, Thiruvallur District, based upon the order of the Revenue Divisional Officer, Ambattur in and by the order dated 01.02.2013. This decision is once again put into challenge in W.P.No.31460 of 2017, which is still pending.

5.In the meanwhile, the patta granted in favour of the petitioners was cancelled after due enquiry. It is once again challenged in W.P.No.6068 of 2018. An order of status quo was granted by this Court in and by the order dated 19.03.2018.

6.The contempt petitions have been filed interalia alleging that an attempt is being made to dispossess the petitioners and during the pendency of the writ petition, the construction has been made in a portion of it for the purpose of Taluk Office.

7.Learned senior counsel appearing for the petitioners would submit that though contentious issues will have to be taken note of in W.P.Nos.31460 of 2017 and 6068 of 2018, the order passed by this Court has been violated at least to the extent of putting up the construction.

8.Learned Government Advocate based upon the affidavit filed would submit that the classification has been restored as Punjai Tharisu as early as 01.02.2013. This

order was passed in view of the patta obtained wrongly by the petitioners by fabricating the records. The order of status quo has not been disobeyed. The construction in the limited portion was over and pursuant to the orders of this Court in this contempt petition, the office of the Tahsildar is functioning at present. The aforesaid construction was also made for yet another reason viz., to comply with the order passed by this Court in another proceedings. In any case, there is no wilful disobedience of the order passed.

9.As rightly submitted by the learned Government Advocate as well as the learned senior counsel for the petitioners, the issue as to whether the restoration of the classification followed by cancellation of patta is right or wrong is to be decided in the pending writ petitions. In the present writ petition, the prayer is not to dispossess the petitioners from the lands on the ground that they are the original owners. Now there is an order of status quo in W.P.No.6068 of 2018. Thus the only issue that can be considered is as to whether the construction put up in a part of the larger extent is wilful or deliberate.

10.This Court is of the view that even prior to the filing of W.P.No.10172 of 2013, action was taken by the respondents by passing appropriate orders on 01.02.2013. This order is also put into challenge, though in the year

2017. When an order is passed by the authority competent to do so, in the absence of any contra material, wilful disobedience cannot be inferred. Admittedly, the construction has been made and completed. At least for the remaining extent, there is an order of status quo in currency. Whether to continue the aforesaid order in favour of the petitioners or not is a matter to be decided in the pending writ petition in W.P.No.6068 of 2018. Suffice it to state that there is no wilful disobedience of the order passed. In any case, W.P.No.10172 of 2013 has become infructuous in view of the order passed, which is the subject matter of W.P.No.6068 of 2018 and also in view of the earlier proceedings which was not brought to the notice of this Court at the time of granting status quo, which was also challenged in W.P.No.31460 of 2017.

11. Though a submission made been made on the steps taken and the order passed by this Court to post the subsequent writ petitions also along with this, a perusal of the records would show that this matter has been adjourned at least on ten occasions. In any case, the writ petition itself having become infructuous, there is no need to keep these petitions pending along with contempt petitions. Accordingly, the contempt petition and the writ petitions are closed. However, liberty is given to the parties to raise the respective contentions in the pending writ petitions. It is also made clear that the

construction put up by the respondents is also subject to the orders to be passed by this Court in the pending matters. Consequently, connected sub application and miscellaneous petition are closed. No costs.

SD/
ASSISTANT REGISTRAR (Comm.Cases)
mmi

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)
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CO/10/05/2018.

One CC to Mr.M. Vijaykumar, Advocate, SR.6249.

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