

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

CONT.P.No.1636/2017

G.Maruthachalam ... Petitioner

Versus

Mr.Palani
The Tahsildar,
Sulur, Coimbatore. ... Respondent

Contempt petition filed under section 11 of the Contempt of Courts Act, 1971, to punish the respondent for his act of willful disobedience of the order dated 29.11.2016 in WP.No.41799/2016.

For Petitioner : Mr.C.R.Prasanan
For Respondent : Mr.M.Elumalai, GA

ORDER

The petitioner, alleging non-compliance of the order passed in WP.No.41799/2016 dated 29.11.2016 came forward to file the present contempt petition.

2 The learned counsel for the petitioner would submit that in the order dated 29.11.2016 made in WP.No.41799/2016, which is the subject matter of contempt, an order came to be passed directing the respondent to conduct the survey on the property of the petitioner, after giving opportunity to all the parties and complete the same within a period of two months from the date of receipt of a copy of the said order and

alleging willful disobedience and violation of the said order, the present petition for contempt is filed.

3 The learned counsel would submit that the Tahsildar, Sulur, vide communication dated 05.10.2017, has effected sub-division and the same is *per se* in violation of the above said orders for the reason that the petitioner has not at all been put on notice and though, the petitioner was waiting all along to receive the notice of enquiry for effecting sub-division, such proceedings of the Tahsildar, Sulur, dated 05.10.2017, are to be set aside with a further direction to make a fresh survey and inspection after putting all the parties including the petitioner on notice. He would also submit that the said order of the Tahsildar, Sulur dated 05.10.2017 is yet to be served on the petitioner.

4 *Per contra*, Mr.M.Elumalai, learned Government Advocate would submit that the notice dated 02.06.2017 has been sent by the jurisdictional Surveyor, Sulur in person and the petitioner as well as Tvl.Krishnasamy, Ramasamy and Nagappan, have refused to receive the same and after following due process of law, the Tahsildar, Sulur, has accorded his approval for sub-division vide proceedings dated 05.10.2017 and if at all the petitioner is having any grievance, he has to work out his remedy in

accordance with law before the competent Forum. Learned Government Advocate also undertakes to give instructions to the Tahsildar, Sulur, to serve the said order dated 05.10.2017 to the petitioner.

5 In response to the same, the learned counsel for the petitioner would submit that under normal circumstances, notices by RPAD should have been sent and in stead, the jurisdictional Surveyor has resorted to personal service and it has been done with an oblique motive.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 The fact remains and according to the learned Government Advocate, personal notices have been served on the petitioner and three other persons concerned ; but they have refused to receive the said notices and though the said fact is seriously disputed by the learned counsel for the petitioner, this Court, in exercise of the contempt jurisdiction, cannot, in a position to test the same. It is also to be noted at this juncture that the Tahsildar, Sulur vide proceedings dated 05.10.2017 has also accorded approval for sub-division.

8 Whether proper notices served on the petitioner before the proceedings of the Tahsildar, Sulur, are sustainable or not, cannot be

gone into by this Court in this contempt petition.
Therefore, the contempt petition is closed.

9 This Court also makes it very clear that the observations made herein, is only for the purpose of disposal of the contempt petition and this Court has not gone into the legality or otherwise of the proceedings of the Tahsildar, Sulur, dated 05.10.2017. The order dated 05.10.2017 of the Tahsildar, Sulur, is to be served on the petitioner within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, if the petitioner is so advised, he is always at liberty to make a challenge to the said proceedings in accordance with law before the competent Forum.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

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CO/10/09/2018

To

Mr. Palani
The Tahsildar,
Sulur, Coimbatore.

One cc to M/s.C.R.Prasanan, Advocate, Sr.No.10902

<https://hcservices.ecourts.gov.in/hcservices/> One cc to the Government Pleader, sr.No.11112