

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 24.08.2018

Orders Pronounced on : 31.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Cont.P.No.333 of 2017

S.Thambi ... Petitioner

Vs.

1. Mr.D.Karthikeyan, I.A.S.,
Commissioner,
Corporation of Chennai,
Rippon Building, Chennai-600 003.

2. Jayaseela,
District Revenue Officer,
Land and Property Department,
Chennai Corporation,
Chennai-600 003.

3. N.S.Sekar,
The Thasildar,
Fort Thandiarpeta Taluka,
Chennai-600 021. .. Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to commit and punish the respondents for not complying with the order dated 26.04.2016 in W.P.No.8807 of 2016.

For petitioner : Mrs.D.Nagasaila

For respondents: Mr.J.Ashok for Mrs.Karthikaa Ashok for RR-1 & 2 ,Mr.M.Elumalai,
Govt. Advocate for R-3

ORDER

This Contempt Petition has been filed to punish the respondents for not complying with the order dated

following order is passed:

"8. Accordingly, this Court permits the petitioner to submit a fresh representation enclosing all the documents in support of his claim, along with a copy of this order to the respondents within a period of two weeks from the date of receipt of a copy of this order. On submitting such representation, the respondents are directed to consider the same by affording an opportunity of personal hearing to the petitioner as well as all the necessary parties, if any and pass appropriate order with regard to grant of patta in respect of his land in R.S.No.1802/42 in Tondiarpet Village, measuring to an extent of 1650 Sq.Ft., on merits and in accordance with law and also in the light of the recommendation made in the letter bearing No.A1/8924/94 dated 28.09.1994 issued by the third respondent to the District Collector, Chennai, within a period of four weeks thereafter.

9. The Writ Petition is disposed of accordingly. No costs."

2. When the Contempt Petition is taken up for hearing, learned counsel for the petitioner submitted that Revenue Survey No.1802 in the village of Tondiarpet in the District of Madras, was assigned for housing to persons belonging to Adi Dravidar Communities and depressed classes. The petitioner belongs to Adi Dravidar Community and residing in Revenue Survey No.1802/42, which falls within the land assigned for Adi Dravidar Community. By communication dated 28.09.1994, the Tahsildar, Tondiarpet, in his proceedings has recorded that the petitioner is in occupation and thereby residing in that land for more than 40 years and is paying house tax and electricity charges. Thus, he has

petitioner. It is also recorded that the other residents of the area who belong to Adi Dravidar Community, have been already given pattas. However, only in respect of the petitioner alone, the assignment and issuance of the patta had not been done. The Tahsildar has also issued a notice, dated 15.09.1994 stating that the petitioner settled on the Corporation's public land measuring 0.1650 Sq.Ft. in S.F.No.1802/42 and that he had constructed a thatched house on that land. In such a situation, the Tahsildar, on 28.09.1994, wrote a letter to the District Collector, recommending to issue patta to the petitioner.

3. Learned counsel for the petitioner further submitted that, in fact, on 04.08.2008, the petitioner was served with a notice, dated 06.06.2008 under Section 220 of the Chennai City Municipal Corporation Act, to vacate and hand over the possession of the property within seven days. Challenging the said notice, dated 06.06.2008, the petitioner filed W.P.No.19235 of 2008 and this Court, by order dated 08.08.2008, has quashed the said notice. Thereafter, the petitioner sent a representation to the Mayor of Chennai Corporation on 14.06.2012 for issuance of No Objection Certificate to facilitate the Tahsildar to issue patta in S.F.No.1802/42, for which, a reply, dated 20.06.2012 was issued by the Revenue Officer, Chennai Corporation, stating that as per the Chennai Corporation records, the land mentioned in S.F.No.1802/42 in Division 28 belongs to the Chennai Corporation's public land and

that land was set apart for public purpose such as public convenience, and hence, No Objection Certificate was not issued. Hence, the petitioner has filed the present Writ Petition in W.P.No.8807 of 2016, and this Court, by order dated 26.04.2016, issued the directions as quoted above. Since the said order dated 26.04.2016 has not been complied with by the respondents, this Contempt Petition is filed by the petitioner.

4. Learned counsel for the respondents 1 and 2, by filing detailed counter affidavit, submitted that the letter dated 28.09.1994 of the Tahsildar, was nullified by the District Collector by proceedings dated 19.09.1997 itself and this fact was suppressed by the petitioner. Further, as per the land records, the land bearing R.S.No.1802/42 of Tondiarpet Village, with an extent of 1 ground 433 Sq.Ft. was classified as Corporation public land and its usage being bath-room and latrine. The Zonal Officer-V had given a report stating that the land under reference belongs to Greater Chennai Corporation and it is to be put into use for public purpose by constructing a community toilet block. Hence, the respondents refused to issue No Objection Certificate. Furthermore, the petitioner has falsely alleged as if he is the only person singled out for not granting patta. However, the order of this Court, has been complied with by conducting enquiry and an opportunity of hearing was also afforded to the petitioner.

5. Learned counsel for the petitioner, by way of reply, by filing rejoinder affidavit, submitted that absolutely, the petitioner has not suppressed any fact and in fact, the Collector's order was also enclosed in the typed set of papers filed along with the Writ Petition and hence, she prayed for punishing the respondents.

6. Heard both sides and perused the materials available on record.

7. This Court is of the opinion that the order dated 26.04.2016 passed by this Court in W.P.No.8807 of 2016, had been duly complied with by the respondents, by conducting enquiry as directed by this Court and the same is evident from the counter affidavit filed by the respondents 1 and 2. So far as the issuance of patta is concerned, this Court has not given any positive direction in the said order.

8. Therefore, no contempt is made out. The Contempt Petition is closed.

सत्यमेव जयते

CS SD/-
ASSISTANT REGISTRAR (COMM.CASES)
//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER(O.S.)

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

To

1. Commissioner,
Corporation of Chennai,
Rippon Building, Chennai-600 003.
2. District Revenue Officer,
Land and Property Department,
Chennai Corporation,
Chennai-600 003.
3. The Thasildar,
Fort Thandiarpur Taluka,
Chennai-600 021.

one cc to Mr.A.Karthika Ashok, Advocate, Sr.No.12522

One cc to Mr.D.Nagasaila, Advocate, Sr.No.12808



WEB COPY