

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16-03-2018

Pronounced on : 28.03.2018

CORAM :

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Contempt Petition No. 1775 of 2016
and
Sub-Application No. 664 of 2016

1. Mrs. Ramani Babu
2. B. Ramesh
3. B. Sabeetha

... Petitioners

Versus

Mrs. S. Kayalvizhi
Sub-Registrar
Vandavasi
Tiruvannamalai District

.. Respondent

Petition filed under Section 11 of The Contempt of Courts Act, praying to punish the respondent for non-compliance of the order in WP No. 7699 of 2016 dated 02.03.2016.

For Petitioners : Mr. T.T. Ravichandran

For Respondent : Ms. P. Kavitha
Government Advocate

ORDER

The petitioners in this contempt petition, who are arrayed as Petitioners 1, 2 and 4 in WP No. 7699 of 2016, have come forward with this contempt petition complaining that the respondent has wilfully disobeyed the order dated 02.03.2016 passed by this Court in WP No. 7699 of 2016 and it warrants initiation of contempt proceedings against her.

2. The petitioners, along with one Suresh, have filed WP No. 7699 of 2016 praying to issue a Writ of Mandamus directing the respondent to release the partition deed, which was presented for registration on 23.10.2015 bearing pending document NO.P201500053 dated 23.10.2015 registered, in the office of the respondent.

3. In the affidavit filed in support of WP No. 7699 of 2016, it was stated by the petitioners that they are in possession and enjoyment of the properties situated at Sathamangalam Village and they have also obtained patta in their name. It was further stated that the petitioners have paid all the taxes and charges due and payable to the authorities concerned without any default. While so, the petitioners intended to partition the property among themselves and accordingly, a Deed of partition dated 23.10.2015 was prepared and presented for registration before the respondent. The respondent, without registering the partition deed, kept it as a pending document without assigning any valid reasons. The petitioners said to have met the respondent on several occasion to get the document released, but such attempts ended in vain. Therefore, the petitioners have filed the above writ petition for the relief mentioned supra.

4. When the writ petition was taken up for hearing,
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this Court, by order dated 02.03.2016 disposed of the above

WP No. 7669 of 2016 by directing the petitioners to submit a representation enclosing all the requisite documents along with the copy of the order dated 02.03.2016 to the respondent within a period of two weeks and on receipt of the same, the respondent was directed to consider it after affording an opportunity of hearing to the petitioners as well as to other parties, if any and to pass appropriate orders for release the pending document dated 23.10.2015, within a period of two weeks thereafter.

5. The grievance of the petitioners is that despite specific direction issued by this Court, the respondent failed and neglected to release the partition deed dated 23.10.2015 presented for registration and thereby disobeyed the directions issued by this Court and it amounts to wilful disobedience of the order dated 02.03.2016 passed by this Court. Therefore, the petitioners have filed the present Contempt Petition seeking to punish the respondent for having wilfully disobeyed the order dated 02.03.2016 passed by this Court.

6. The learned counsel for the petitioner would contend that on receipt of the copy of the order dated 02.03.2016, on 23.03.2016, the petitioners sent a representation dated 28.03.2016 to the respondent by registered post, as directed by this Court. In response, on 01.04.2016, the respondent sent a letter calling upon the petitioners to produce the

legal heir certificate of the grandmother of the writ petitioner 2 to 4 namely Radhabai Bai Ammal and the same was also furnished by the petitioners by way of a reply letter dated 05.04.2016. Thereafter, the petitioners did not hear anything from the respondent and the respondent also did not release the registered partition deed. Even though the outer time limit granted by this Court in the order dated 02.03.2016 lapsed, the respondent failed and neglected to comply with the directions issued by this Court and therefore, this Court has to initiate necessary contempt proceedings against the respondent for having wilfully and deliberately disobeyed the order passed by this Court.

7. The learned Government Advocate appearing for the respondent submitted that during the pendency of the contempt petition, the respondent has passed an order in proceedings No.292/2015 dated 03.10.2016 whereby the respondent refused to release the partition deed presented by the petitioners for registration. According to the learned Government Advocate, a perusal of the order dated 03.10.2016 would indicate that the respondent has conducted an enquiry with respect to the ownership of the land covered under the partition deed, referred to the objections dated 15.02.2016 and 20.09.2016 raised by one Venkatesan, who is the brother-in-law of the first petitioner herein, for registering the deed of partition presented by the petitioners by raising a dispute over the right of the petitioners to claim title over

the property in question. The fact remains that an enquiry was conducted by the respondent on 16.09.2016 in which the petitioners participated and on 27.09.2016, further enquiry was conducted during which the objector Venkatesan appeared and submitted his written objections. Thereafter, the respondent passed a reasoned order dated 03.10.2016 refusing to release the partition deed to the petitioners. In the order dated 03.10.2016, it was specifically indicated that if the petitioners are in any manner aggrieved by the same, they shall prefer an appeal to the District Registrar within 30 days therefrom. As the order dated 02.03.2016 passed by this Court has been complied with by the respondent by passing an order of rejection dated 03.10.2016, it cannot be said that the respondent had wilfully and deliberately violated the order passed by this Court. When an order of rejection has been passed by the respondent, the petitioners are not entitled to pursue this contempt petition any further. Therefore, the learned counsel for the respondent prayed for dismissal of the contempt petition.

8. I heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondent and perused the records. By the order dated 02.03.2016 passed in WP No. 1778 of 2016, this Court directed the petitioners to submit a representation to the respondent and on receipt of the same, the respondent was directed to conduct an enquiry and thereafter pass an order on merits.

In compliance with the said direction, admittedly, the respondent conducted an enquiry in which the petitioner and one Venkatesan, brother-in-law of the first petitioner appeared in person and after recording their submission, the respondent passed the order dated 03.10.2016 refusing to release the partition deed dated 23.10.2015 presented by the petitioners for registration. In fact, the petitioner has also enclosed a copy of the order dated 03.10.2016 along with Sub-Application No. 664 of 2016 and sought for interim stay of operation of the order dated 03.10.2016 on the ground that the respondent, without properly appreciating the submissions made by the petitioners during the personal enquiry, has erroneously passed the order dated 03.10.2016. If it is so, it is open to the petitioners to assail the order dated 03.10.2016 in a manner known to law. The fact remains that pursuant to the order dated 02.03.2016 passed in WP No. 1778 of 2016, the respondent has passed an order of rejection dated 03.10.2016. The validity or otherwise of the order dated 03.10.2016 cannot be gone into by this Court in this contempt petition. When an order of rejection has been passed by the respondent, the petitioners are not entitled pursue this contempt petition on the ground that the respondent has violated or disobeyed the directions issued by this Court in the order dated 02.03.2016 passed in WP No. 1778 of 2016 by passing an order within the outer time limit granted by this Court. In such view of the matter, this Court does not find any disobedience, much less wilful

disobedience on the part of the respondent in complying with the order 02.03.2016 passed in WP No. 1778 of 2016. Therefore, the contempt petition deserves only to be dismissed.

9. In the result, the Contempt Petition is dismissed. No costs. Consequently, Sub-application No. 664 of 2016 is closed.

SD/
ASSISTANT REGISTRAR (Commr.Cases)
rsh

//Certified to be true copy//
Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

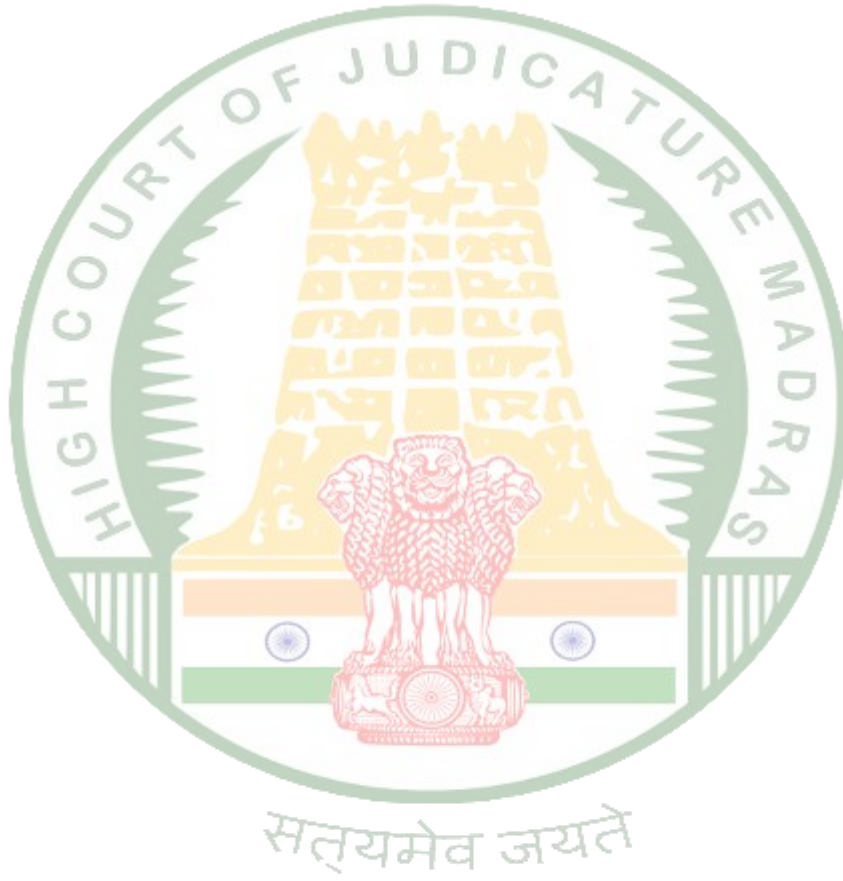
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CO/06/06/2018.

To.

Mrs.S. Kayalvishi,
Sub. Registrar,
Vandavasi,
Tiruvannamalai Division.

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