

In the High Court of Judicature at Madras

Orders reserved on 14.09.2018

Order Pronounced on 05.10.2018

Coram

The Honourable Mr.Justice R.SUBBIAH

Contempt Petition No.268 of 2018

Y.Peeter Petitioner

..vs..

1.Mr.Subramani,
Tahsildar,
Thandrapattu Taluk,
Thiruvannamalai District.

2.Mr.Kumar,
Land Surveyor/Revenue Inspector,
Land Demarcation Section,
Tahsildar Office,
Thandrapattu Taluk,
Thiruvannamalai District. Respondents

Contempt Petition has been filed under Section 11 of Contempt of Court Act, to punish the respondents for willful disobedience of the orders dated 12.04.2016 in W.P.No.13558 of 2016 passed by this Court.

For Petitioner : Mr.J.Agni Selvaraju

For Respondents : Mr.J.Purushothaman, Govt. Advocate.

ORDER

This Court by order dated 12.04.2016 disposed of the writ petition in W.P.No.13558 of 2016. The operative portion of the order is as follows:-

"5.Taking into consideration the factual aspects of the matter, this Court, without going into the merits of the case, directs the respondents to consider the said land demarcation applications of the petitioner, dated 05.02.2016 and 24.02.2016, conduct enquiry, afford an opportunity of personal hearing to the petitioner and necessary parties, pass appropriate orders and dispose of the said

applications, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the respondents to decide the same."

2. Now, the present contempt petition alleging non-compliance of the above said order dated 12.04.2016 passed by this Court.

3. In the affidavit filed in support of this contempt petition it has been averred by the petitioner that on 05.02.2016, the petitioner made an application before the 2nd respondent under Sections 9 & 10 of the Tamil Nadu Land Survey and Boundaries Act, 1923 for demarcation of his properties vide Patta No.2214, 1203 and 59. He has also paid proper deposit fee of Rs.1,040/- towards survey charge before the 2nd respondent. Again on 24.02.2016, he made another application before the 2nd respondent for demarcation of his House site vide Patta No.89 and he paid proper deposit fee of Rs.80/- towards survey charges. As per the citizen charter available in the Tahsildar Office, the petitioner's land demarcation application shall be accepted or rejected within a period of 30 days. The petitioner waited for more than two months, but the 2nd respondent neither accepted nor rejected his land demarcation application and simply kept pending. Hence, the petitioner's applications was not considered, he filed the writ petition in W.P.No.13558 of 2016, in which this Court has passed the order as stated supra. Since the order of this Court has not been complied with, the present contempt petition has been filed by the petitioner.

4. The respondents have filed a counter affidavit stating that even when the actions were in progress on the representations dated 05.02.2016 & 24.02.2016 for demarcation of his lands, the petitioner filed the writ petition in W.P.No.135582 of 2016 before this Court. The respondents have not filed any counter affidavit to the said writ petition. This Court by order dated 12.04.2016 has passed the order as stated supra. In the meantime, one Kulandaiyesu S/o.Kaspar issued a legal notice dated 10.06.2016 through his counsel Mr.A.M.Olivanan to the respondents herein and also to the petitioner, claiming absolute right over the subject land. In fact, the present petitioner appears to have filed a civil suit in O.S.No.164 of 2008 on the file of the learned Principal District Munsif at Chengam, which was dismissed in the year 2013 and against which, the petitioner had filed an appeal in A.S.No.24 of 2013 on the file of the Additional Sub-Court, Tiruvannamalai and the said appeal was also dismissed on 17.02.2014. It is further stated that the petitioner has also filed yet another suit in O.S.No.201/2009 on the file of the Additional District Munsif Court at Chengam, which is now pending. Suppressing all the above facts, the petitioner has filed the writ petition. The petitioner as well as some of the claimants of the above said land are close relatives and they have been claiming and counter claiming interest in the above land, which culminated in filing of several suits in civil courts at Chengam. In fact, an enquiry was conducted by the Revenue Officials on 29.06.2016 and during the enquiry, the petitioner had stated that he would prefer to await the outcome of the suit pending in O.S.No.201 of 2009 on the file of the Additional District Munsif Court at Chengam. The petitioner has filed the present contempt petition deliberately suppressing the facts about the pendency of the civil suit and the revenue enquiry conducted on 29.06.2016. Thus, the respondents sought for dismissal of the contempt petition.

5. The learned Government Advocate appearing for the respondents, by producing a copy of the Notices dated 27.02.2018 sent to the petitioner and the counter claimant calling upon them to appear for enquiry on 01.03.2018, would submit that again, an enquiry was conducted on 01.03.2018 and the subject land was measured by metes and bounds in the presence of the petitioner and the other claimants, however, the petitioner refused to sign in the enquiry report. In this regard, he has also produced a copy of the proceedings dated 16.08.2018 issued by the 1st respondent. Thus, the learned Government Advocate submitted that the order of this Court has been complied with.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7.From a perusal of the materials available on record, it is seen that there a dispute between the petitioner and the other claimants in respect of the subject property and civil proceedings are pending before the civil Court between the parties. Further, in compliance of the order passed by this Court, the respondents have also conducted an enquiry and measured the subject property. Under such circumstances, this Court does not find any violation of the order on the part of the respondents. Hence, this Contempt Petition is closed.

05.10.2018

Internet : Yes / No

Index : Yes / No

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R.SUBBIAH, J.,

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Pre-delivery Order
in

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