

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.11.2018

PRONOUNCED ON : 11.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

and

THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

CONT P.No. 2311 of 2018
and Sub Application No. 634 of 2018

1. S.Palani
2. P. Bhuvaneswari
3. P.Sathishkumar ... Petitioners

Vs.

1.X.Penatin
S/o. Xavier Pachai,
The Thasildar,
Sriperumbudur Taluk,
Sriperumbudur, Kanchipuram District.

2.Premalatha
The Executive Officer,
Town Panchayat Union,
Mangadu Town Panchayat Union,
Kanchipuram District.

3.Krishnakumar
The Inspector of Police,
T-14, Mangadu Police Station,
Mangadu, Chennai-600 122. .. Respondents

Petition filed under Sec 11 of Contempt of Courts Act,
praying to punish the respondents for having deliberately,
willfully and intentionally flouted the order of this Court
passed in W.P. No. 22326 of 2018 dated 14.09.2018

For Petitioners : Mr.M.Vijay Anand

For Respondents : Mr.V.Prabhu,
Government Advocate

O R D E R

[Order of the Court was made by S. RAMATHILAGAM, J.]

The present contempt petition has been filed by the petitioners to punish the respondents for having deliberately, willfully and intentionally flouted the order of this Court passed in W.P. No. 22326 of 2018 dated 14.09.2018.

2. The brief facts of the writ petition are as follows;

The petitioners have been in enjoyment and possession of the land bearing survey no. 511 situated in Mangadu Village, Mangadu Town Panchayat Union, Kanchipuram District measuring about 23.50 cents classified as 'Kalamedu' which belongs to their family. They have further stated that the said land is their ancestral property and the 1st petitioner's father was enjoying the same from the year 1958 onwards and the petitioner's family is also residing in the said land and enjoying the said property for many decades by paying necessary charges to the concerned Government authorities for the extent of 23.50 cents and have got joint patta for the entire extent of 23.50 cents of land, bearing patta No. 1125 issued by the Special Thasildar for Land Reforms.

It is further stated in the writ petition that the petitioners have got reply from the Right to Information Act, with regard to the actual status of their land, wherein it has been mentioned that their land in Survey No. 511 of total

extent 23.5 cents was not allotted for the construction of office of the 6th respondents/3rd respondent in the Contempt Petition. It is the grievance of the petitioner that the respondent are bound to verify the revenue records and have to consider the petitioner's lawful possession of the said property for the past 60 years and allotting his part of the land for construction of the 3rd respondent police station is against the principles of natural justice.

3. This Court has considered the said writ petition and disposed of the same with the following directions vide order dated 14.09.2018.

"Respondents 1 to 5 to issue notice to the petitioner by way of an opportunity, so as to enable them to submit their representation ventilating their grievance and objections along with documents within a period of two weeks from the date of receipt of this order. On such representation being made by the petitioners, the respondents 1 to 5 are directed to consider the same and pass a detailed order in regard to all the points factually and legally raised therein by the petitioners, within a period of four weeks thereafter. The petitioners are at liberty to defend their possession by raising all factual and legal objections. The respondents/authorities are also at liberty to proceed against the petitioners if they are held to be encroachers, in accordance with law by affording reasonable opportunity to them. Till the final orders are passed in the subject matter in issue,

the petitioner's possession shall not be disturbed/displaced".

4. It is the grievance of the petitioner that inspite of the order of this Court, the 3rd respondent has not stopped his unlawful construction and he is still continuing the same by encroaching and dispossessing the petitioners from their property. Hence the petitioners have filed this contempt petition for the wilful disobedience on the part of the 3rd respondent for not complying the directions of this Court.

5. Heard both sides and perused the documents available on record.

6. It is argued by the petitioners that the Respondents have committed contempt of Court in not obeying the directions issued by this Court in W.P.No. 22326 of 2018 dated 14.09.2018 by not enquiring the petitioners and allowing the 3rd respondent for construction by encroaching their lands, which are in their possession.

7. The Tahsildar, Pallavaram Taluk/ 1st Respondent has filed a counter affidavit and argued that in obedience to the directions issued by this Court, they issued notice to the petitioner to attend the enquiry on 26.10.2018 along with

relevant documents vide Na.Ka.No. 5915/2018/A1, dated 17.10.2018. Instead of appearing before the 1st Respondent, the petitioner submitted a representation and sought for two weeks time for appearing for enquiry on 26.10.2018. It is also stated in the counter affidavit and also argued that the land under Survey No. 511 was further sub-divided by the revenue officials as 511/1 and 511/2 in order to allot the land for constructing the building for Mangadu Police Station. The said land classified as "Kalamedu Poramboke" in the revenue records measuring to an extent of 00.08.0 acres of vacant land has been identified by the revenue officials in S.No. 511/2 and the same has been handed over to the police department by revenue official on 27.08.2016. It is further argued that the said land was also surveyed by the surveyor in the presence of Village Administrative Officer and the boundaries were also earmarked on 03.06.2017 in order to avoid any encroachment and handed over to the Tamil Nadu Police Department Housing Board for construction. It is further stated that the Natham Patta claimed to be issued infavour of the petitioner is forged one by stating that the petitioner has encroached upon 0.01.5 ares on which they have constructed houses after 09.10.2014 and the land was mentioned as vacant lands in partition deed no. 14787/2014 dated 09.10.2014. Hence the Respondent argued that the petitioner instead of appearing before the Respondent, sought for two weeks time and filed this contempt petition.

8. It is also contended by the 1st Respondent that the petitioner cannot claim a vacant portion of a Government land by way of encroachment and the land situated in the said survey number was not disturbed or displaced and the said land encroached by the petitioner is under occupation till date and the remaining vacant land in survey no. 511/2 (0.08.0) ares has been handed over to the police authorities for construction of police station. It is the petitioner who has trespassed in the Government property cannot claim title over the property and further the petitioner has not produced any relevant documents to show that the land belongs to them. Hence it is the plea of the Respondents that the petitioners are not disturbed and they are in occupation in the said survey No. 511/1 and therefore the respondents have not committed any willful disobedience of the order passed by this Court.

9. In view of the arguments advanced on either side and also this Court, by taking note of the whole gamut of the attendant facts and circumstances of the case in an encircling manner, holds that it is the petitioners who had not appeared before the Respondents to make their submissions with regard to their legal possession and enjoyment of the property and sought for two weeks time and filed the present Contempt Petition.

10. In the light of the foregoing, this Court unhesitatingly holds that the Respondents had not committed any willful disobedience of the order passed in the Writ Petition. Viewed in that perspective, the present contempt petition is dismissed but without costs. Consequently, the Sub Application filed by the petitioners is closed. Further, the respondents 1 to 5 in W.P. No 22326 of 2018 are directed to proceed as per the directions issued by this Court vide order dated 14.09.2018 in true letter and spirit and send a report of compliance by addressing the Registrar (Judicial), High Court, Madras directly in a diligent fashion without fail.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

AK

//Certified to be true copy//

Dated at Madras this the day of 2018.

सत्यमेव जयते

COURT OFFICER(O.S.)

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CO/11/12/2018

To

1.X.Penatin

S/o. Xavier Pachai,

The Thasildar,

Sriperumbudur Taluk,

Sriperumbudur, Kanchipuram District.

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The Executive Officer,
Town Panchayat Union,
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The Inspector of Police,
T-14, Mangadu Police Station,
Mangadu, Chennai-600 122.

4.The Registrar (Judicial)
High Court, Madras -104.
(for favour of information and necessary
follow up action, if any)



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