

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.01.2019

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CONT. PETITION NO. 89 OF 2019

AND

SUB APPLICATION NO. 36 OF 2019

K.Munusamy ... Petitioner

- Vs -

1. C.Paneerselvam

2. P.Kanagavalli

3. P.Indrani

4. The Inspector of Police

Asthampatti Police Station

Salem District.

(R-4 suo motu impleaded vide order
of Court dated 11.1.2019)

... Respondents

Contempt Petition filed under Section 11 of the
Contempt of Courts Act to punish the respondents for their
wilful disobedience of the order dated 30.08.2018 in CrI.
O.P. No.6072 of 2018.

For Petitioner : Mr. C.Girish Babu

For Respondents : M/s. J.Prithvi, GA for RR-1 to 3
Kritika Kamal. P, GA (CrI. Side)

ORDER

This contempt petition has been filed by the
petitioner to punish the respondents for their wilful
disobedience of the order dated 30.08.2018 in CrI. O.P.
No.6072 of 2018.

2. For the sake of convenience, the parties will be referred to by their name.

3. Paneerselvam & Party filed Crl. O.P. No.6072 of 2018 with the following prayer arraying the Inspector of Police, Hasthampatti Police Station and Munusamy & Party as respondents :-

"Criminal Original Petition filed under Section 482 Cr.P.C., praying to direct the 1st respondent police to provide protection to the petitioners for constructing concrete house under the Tamil Nadu Slum Clearance Board Scheme as per the communication dated 27.09.2017 in the land assigned to 2nd petitioner issued by Tahsildar, Salem on 01.11.2017 in Plot 1/66, Hastampatty Village, Salem."

4. It is the case of Paneerselvam that Munusamy & Party are preventing him from putting up construction within the land absolutely belonging to him despite an order of injunction in O.S. No.490/13 by the I Addl. District Munsif, Salem. After hearing either side, this Court passed the following order in Crl. O.P. No.6072 of 2018 on 30.08.2018 :-

"5. Per contra, the learned counsel for the respondents 2 and 3 fairly conceded that they would not cause any obstruction as long as the petitioners do not make any

encroachment on the western side, which is a disputed territory.

6. Recording his submission, this Court directs police protection to the petitioners to ensure that there is no hindrance to the construction by them within their boundary, without causing any encroachment on the western side of the property. The 1st respondent police is directed to afford sufficient police protection to the petitioner."

5. Munusamy has filed the present contempt petition alleging that, armed with the order dated 30.8.18, passed by this Court, Paneerselvam & Party are putting up construction on the western side, belonging to him. This Court, *suo motu*, impleaded the Inspector of Police, Hasthampatty Police Station as party respondent.

6. Today, Ms.P.Palaniyammal, Inspector of Police, Hasthampatty Police Station, Salem City, is present. Paneerselvam and Kanagavalli (respondents 1 and 2 herein) are present. Counsel for Paneerselvam has filed counter and typed set of papers denying the allegations.

7. On instructions from the police, learned Government Advocate (Crl. Side) submitted that on account of the dispute between the two sides, affecting public order, the police have initiated proceedings u/s 145 of Cr.P.C. in

Crime No.17/2019 on 15.1.19. That apart, in Crl. O.P. No.6072/18, this Court had only granted police protection to Paneerselvam & Party, provided they do not cause any encroachment on the western side of the property, where the property of Munusamy & Party is situate. This Court has not given any finding on title or possession in favour of either of the party. Admittedly, the suit in O.S. No.490/13, filed by Paneerselvam & Party against Munusamy & Party is pending. If Munusamy & Party are aggrieved by the act of Paneerselvam & Party putting up construction in their property on the western side, it is always open to them to approach the Civil Court and obtain appropriate relief. The contempt jurisdiction cannot be invoked since this Court had granted only police protection and not granted permission to put up construction. Permission to put up construction is to be given by the Municipal/Panchyat authorities and the order dated 30.8.18, passed by this Court in Crl. O.P. No.6072/18 cannot be construed as grant of permission by this Court to Paneerselvam & Party to put up construction.

8. At the risk of repetition, it is to be pointed out that the order in Crl. O.P. No.6072/18 relates only to grant of police protection. Since Section 145 proceedings have been initiated now, suffice to state that the police shall ensure that there is no further breach of peace until

a decision is taken either u/s 145 proceedings or by a competent civil court.

9. With the above observation and direction, this contempt petition is closed. Consequently, connected sub application is also closed.

gln

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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

PS/21/02/2019

To

The Inspector of Police
Asthampatti Police Station
Salem District.

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