

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.08.2019

CORAM

The Honourable Mr.JUSTICE K.K.SASIDHARAN

and

The Honourable Ms.JUSTICE P.T.ASHA

CONT.P.No.2658 of 2015

R. Kandan

...Petitioner

Vs.

1. Mr. S. Mathivanan
The Commissioner
Avadi Municipality
Avadi, Chennai- 600 054.

2. S. Gunasekaran,
No.37, 5th Street,
Kamarajar Nagar,
Avadi,
Chennai 600054.

* (2nd Respondent impleaded pursuant to the order dated
27.03.2019 in Sub Application No.139/2019)

...Respondents

Prayer : Contempt Petition is filed under section 11 of
the Contempts of Courts Act 70/72 to punish the respondent
for violating the order of this Honourable Court dated
23.09.2015 in W.P.No.25184 of 2015, award cost.

For Petitioner	: Mr. Balan Haridas
For Respondents	: Mr. Ponraj for
	Mr. P. Srinivas for R1
	Mr. P. Jegadeesan for R2

O R D E R

(Order of the Court was delivered by P.T.ASHA, J)

The above Contempt Petition is initiated at the
instance of the writ petitioner on account of the fact that
the respondents 4 and 5 in the writ petition, W.P.No.7518

of 2015 had failed to comply with the orders dated 23.09.2015.

2. This Court on 23.09.2015 had passed the following orders:

"5. In view of the above said submissions, without expressing any opinion on the merits of the case, we direct the fourth respondent to consider the petitioner's representation dated 20.05.2014 and pass appropriate orders on merits and in accordance with law, after proper survey and inspection of the entire area in question by a responsible officer and if it is found that there is any deviation or unauthorised construction by either parties, the fourth respondent shall take necessary action for removal of such illegal construction, after affording proper opportunity to all the parties concerned. Such an exercise shall be completed within a period of one week from the date of removal of unauthorised construction by the fifth respondent as aforestated.

6. This Writ Petition is disposed of with the above direction. No costs."

3. Since the respondents 4 and 5 had failed to comply with the aforesaid order, the petitioner had come forward with the instant Contempt Petition. On 06.06.2019 this Court taking note of the submission made by the learned counsel for the second respondent that the entire building put up by his client was without approval and the representation of the learned counsel for the petitioner that by reason of this construction the entire air and light to his premises had been cut off, appointed an Advocate Commissioner. The Advocate Commissioner was directed to report the following:

"Verify as to whether the new construction has been put up over the compound wall and the same has resulted in the light and air to the petitioner's property being cut off and also to measure the construction put up by the 2nd respondent with the help of the Town Surveyor, whose services shall be made available by the 1st respondent to the Advocate Commissioner and note down the front, rear, and side backs and submit a report on or before 20.06.2019"

4. When the matter came up on 08.07.2019, the Commissioner had filed his report and at the instance of the learned counsel for the petitioner the matter was

adjourned to 22.07.2019. The Petition was adjourned on 22.07.2019, 08.08.2019 and 13.08.2019.

5. On 19.08.2019 when the matter was taken up, the second respondent filed an affidavit to the effect that in order to purge himself of the contempt he would pay a sum of Rs.15,00,000/- by way of reimbursement of the expenses incurred by petitioner for demolition and reconstruction of the building to the petitioner and had agreed to remove the projected portion in order to ensure that there was no inconvenience caused to the petitioner. He had also agreed to pay the first instalment of Rs.5,00,000/- to the second respondent on or before 29.08.2018.

6. The matter which came up on 29.08.2019 was adjourned to 30.08.2019. When the matter was called today the learned counsel for the second respondent tendered the Demand Draft for a sum of Rs.5,00,000/- being the first instalment from out of the sum of Rs.15,00,000/- which is being paid to reimburse the expenses that the contempt petitioner had incurred on account of the counter complaint given and the petitioner being made to demolish and reconstruct the portion of his property. The second respondent has undertaken to pay the balance amount of Rs. 10,00,000/- with a period of four (4) months from date. The parties have no claim against each other.

7. The learned counsel for the second respondent would submit that they have submitted the necessary plan to the first respondent for putting up a construction in his property and the same has not been processed by the first respondent on account of the pendency of these proceedings. It is needless to state that the first respondent shall process the said application without reference to the instant proceedings and decide it as per the prevalent rules and regulations.

8. The parties would submit that they have no further claim against each other. In view of the above the Contempt Petition stands closed. No costs.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

dpq

//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.

Smi/26/09/2019

To

The Commissioner,
Avadi Municipality,
Avadi, Chennai 600 054.