

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.10.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Contempt Petition No.695 of 2019

J.Krishnakumar .. Petitioner

/versus/

Mr.Kannan
Commissioner
Pollachi Municipality
Pollachi, Coimbatore District. .. Respondent

Contempt Petition filed under Section 11 of Contempt of Courts Act praying to punish the respondent herein for his wilful disobedience and non-compliance of the orders of this Court made in W.P.No.28043 of 2018, dated 02.01.2019 under the provisions of Contempt of Courts Act.

For Petitioner :Mr.C.Prakasam

For Respondent :Mr.B.Anand

ORDER

The contempt petition is filed to punish the respondent herein for his wilful disobedience and non-compliance of the orders of this Court made in W.P.No.28043 of 2018, dated 02.01.2019 under the provisions of Contempt of Courts Act.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. The petitioner herein, alleging that the order passed by this Court in W.P.No.28043 of 2018 dated 02.01.2019 has not been complied in letter and spirit by the respondent, so he has filed the contempt petition.

4. The grievance of the petitioner in the said writ petition was that adjacent to the land there is a burial ground and a cart track. Due to non-marking and identification of the boundaries of the burial ground, the public are burring the dead bodies in the cart track and the request to the respondent to de-mark the cart track and burial ground has not been considered.

5. When the matter came up for hearing, this Court, after considering the petitioner's representation and submissions of the learned counsel appearing for the respondent, found that the third respondent has put up a board in the burial ground informing that public should bury the dead bodies only in the burial ground and prevented the public from trespassing the burial ground and

other common pathway and also constructed the compound wall in and around the burial ground. On seeing the photographs, this Court has disposed of the writ petition holding that no further adjudication is required.

6. In the Contempt Petition, it is contended that after disposal of the writ petition, the burial ground is fenced only on three sides leaving open one side. Thus, the respondent has misled the Court as if the burial ground is fully fenced. Hence, there is a wilful suppression of fact. The respondent wantonly and deliberately disobeyed the order of this Court.

7. In response to this contempt petition, the Commissioner, Pollachi Municipality has filed counter wherein it is stated that after the respondent fenced the burial ground, one K.Angamuthu, who is having land behind the burial ground, filed W.P.No.10174 of 2019 alleging that due to fencing of the burial ground, he could not go to his land and the cart track has been closed.

8. On hearing the petition, this Court on 08.04.2019 has directed the Revenue Divisional Officer, Pollachi to survey the land and remove the fence to an extent of 12

feet in the cart track. Accordingly, after notice to the petitioner and K.Angamuthu, the fence to the extent of 12 feet was removed so as to have ingress and egress through the burial ground to reach the opposite side road.

9. The order of the Revenue Divisional Officer was duly passed on 21.06.2019. A copy of the order has also been served to the petitioner herein and therefore, there is no suppression of fact or wilful disobedience of the order of this Court.

10. The photographs of the burial ground fully fenced with opening of 12 feet for use as cart track have also been enclosed along with the affidavit filed by the respondent.

11. The averments made in the affidavit clearly disclose that after the order passed by this Court on 02.01.2019, which is alleged to have been breached by the respondent, another writ petition has been filed before this Court and pursuant to the order passed in the subsequent writ petition, the fence of 12 feet has been removed for the purpose of ingress and egress and not for any other purpose.

12. In such circumstances, the allegation made in the contempt petition that the respondent has suppressed the fact and wilfully disobeyed the order of this Court, has no substance. Hence, the contempt petition is dismissed. No costs.

SD/-

ASSISTANT REGISTRAR (COMM. CASES)

ari

//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/21/10/2019

सत्यमेव जयते

To

Commissioner
Pollachi Municipality
Pollachi, Coimbatore District