

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

Cont.P.No.1376 of 2019

V.Balasaraswathi,
W/o.V.V.Venkatesan,
No.456, Govindraj Street,
Vasanthauram Extension,
Unamancherry,
Chennai-600 127

... Petitioner

vs.

Tmt.P.Kavitha,
The Deputy Director of Town and Country
Planning,
Chengalpattu Zone,
No.124, G.S.T.Road,
Periyar Shopping Complex,
Chengalpattu-1

.... Respondent

Contempt Petition filed under Section 11 of the
Contempt of Courts Act, to punish the respondent for
committing contempt of the order of this Hon'ble Court,
dated 18.09.2015, made in Writ Petition No.27648 of 2015.

For Petitioner : Mr.Ami.V.Kataria

For Respondent : Mr.S.N.Parthasarathi,
Govt.Advocate

ORDER

The petitioner Ms.V.Balasaraswathi, wife of V.V.Venkatesan, No.456, Govindraj Street, Vasanthauram Extension, Unamancherry, Chennai, has filed this Contempt Petition for the alleged non-compliance of the directions of this Court in the order **dated 18.09.2019 in W.P.No.27648 of 2015**, filed by her. The directions of this Court in Paragraph No.4 of the said order is quoted hereunder for ready reference:

"4.In view of the aforesaid submission made in the counter affidavit, we are not inclined to pass any other order at this stage. However, the fourth respondent is directed to take consequential action, if necessary, at the earliest, within a period of four weeks from the date of receipt of a copy of this order."

2.Upon issuance of notice, the respondent/contemnor- Tmt.P.Kavitha, daughter of R.Purushothaman, working as Deputy Director, Department of Town and Country Planning, Chengalpattu Division, Kancheepuram District, has filed her affidavit, dated 26.09.2019, in this Court, *inter alia*, in which, in Paragraph No.8, it is stated as below:

"8.It is further submitted that in turn the 4th respondent by his letter in Na.Ka.No.3139/2015/Se.Ma.3, dated 02.11.2015 informed to the petitioner that the 3rd respondent given planning approval to the 5th respondent, after following due process of law and the 3rd respondent not violated any rules of the Town and Country Planning Act."

3.The learned counsel for the petitioner, however, submitted that in the earlier counter affidavit, dated 14.09.2019, filed by Mr.V.M.Rajendran, Son of Mr.Manickam, who was Deputy Director of Town and Country Planning, Chengalpet Zone, at that point of time, it was stated in Paragraph No.4 that the fifth respondent deviated the sanctioned plan in the ground and first floor and without building plan from the fourth respondent (The Deputy Director, Town and Country Planning, Chengalpet Zone, No.124, G.S.T.Road, Chengalpet), had constructed the second floor.

4.After perusal of the records and directions of this Court, we are not inclined to interfere in the present matter and invoke our Contempt jurisdiction. Firstly, this Court, while passing the order dated 18.09.2015, had made it clear that the Court was not inclined to pass any other order at that stage, however, the 4th respondent, the Deputy Director, Town and Country Planning, Chengalpet

Zone, Chengalpet, was directed to proceed in accordance with law. Since, apparently no action was taken at that point of time, the present Contempt Petition has been filed belatedly after four years, in the year 2019 and now the Contemnor files an affidavit before this Court that the planning approval was duly taken by the 5th respondent, after raising the construction. These are admittedly disputed questions of facts, which cannot be adjudicated upon in the Contempt Proceedings by this Court. So long as the planning permission is held by the respondent No.5-D.Perumal, who raised the construction in question, the same cannot be questioned in the Contempt jurisdiction. Therefore, the present Contempt Petition is dismissed.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

msk

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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Smi/18/12/2019

To

The Deputy Director of Town and Country
Planning,
Chengalpattu Zone,
No.124, G.S.T.Road,
Periyar Shopping Complex,
Chengalpattu-1



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