

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20-09-2018

Pronounced on : 30-01-2019

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Letters Patent Appeal No. 2 of 2017
and
CMP.NO.14210/17 and CMP.NO.22280 OF 2017

1. P. Vimal
2. K. Parthasarathy ... Appellants

Versus

1. M. Kannan
2. Mr. Vikraman
Superintendent of Police
Anti Land Grabbing Cell (Economic Offences Wing)
Villupuram, Villupuram District
3. The Sub-Registrar
Avaarapakkam
Tindivanam, Villupuram District
4. N. Raghunath
5. The Sub-Registrar
Marakkanam
Villupuram District .. Respondents

Appeal filed under Clause 15 of the Letters Patent against the Order dated 10.08.2016 made in Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015 on the file of this Court.

Prayer in Sub Application No.607/2015 in Cont P 692/15:

Petition filed under order 1 Rule10(2) of CPC to implead the proposed Respondents as per Respondents 2 to 6 in the contempt Petition.

Prayer in Contempt Petition No. 692/15:

Contempt Petition filed under section 11 of the Contempt of Courts Act to Punsih the Respondent for the Non-Compliance of the order in Contempt Petition No.2477 of 2013 dated 04.04.2014.

For Appellants

: Mr. V. Lakshminarayanan
for Mr. S. Mohammed Uduman

For Respondents : Mr. V. Ramamoorthy
for Mr. G. Baskar for R1

Mr. A. Dev Narendran
Government Advocate for RR2, 3 and 5

Mr. K.T.S. Sivakumar for R4

JUDGMENT

R. Subbiah, J

This intra-court appeal is preferred by the appellants as against the order dated 10.08.2016 passed by the learned single Judge allowing the Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015 filed by the first respondent herein under Order 1 Rule 10 (2) of the Code of Civil Procedure to implead the appellants as party respondents to the contempt proceedings.

2. The facts which are required for consideration of this appeal are narrated in brief as under

3. The first respondent herein has given a complaint dated 30.07.2012 against the appellants herein to the Superintendent of Police (Anti-land Grabbing Cell)/Economic Offences Wing, Villupuram, alleging that the appellants have created a forged and fabricated power of attorney and sale deed in respect of his property without any valid title. According to the first respondent, the subject matter of the property comprised in Survey No. 157 (New Survey No.59/4B) admeasuring an extent of 2.66 acres out of 11.13 acres situated in Salavathy Village, Tindivanam Taluk was purchased by his wife in an auction conducted by the Court in an insolvency proceedings on 11.01.1996 and a sale certificate dated 27.02.1996 was executed in favour of his wife which was registered as document No. 290 of 1996 on the file of Sub-Registrar, Avarapakkam. The first respondent also stated in his complaint dated 30.07.2012 that he has filed a suit in O.S. No. 341 of 2006 on the file of District Munsif Court, Tindivanam against the appellants herein for a bare injunction. Further, according to the first respondent, the second respondent herein did not take any action on his complaint dated 30.07.2012 and therefore, he has approached this Court with Criminal Original Petition No. 3372 of 2013 praying for a direction to direct the second respondent herein to register a case on the basis of his complaint dated 30.07.2012. By order dated 29.04.2013, this Court issued a direction to the second respondent herein to register a case, if any cognisable offence is made out in the complaint given by the first respondent. Pursuant to such direction, the Deputy Superintendent of Police (Anti-land Grabbing Cell), Villupuram conducted a preliminary enquiry and closed the complaint given by the first respondent on 30.07.2012 by submitting a report dated 27.05.2015 concluding that the

dispute raised in the complaint is purely civil in nature and such dispute has to be adjudicated by a competent Civil Court. Aggrieved by the said order of closure of the complaint dated 27.05.2015, the first respondent herein filed Contempt Petition No. 2477 of 2013 before this Court alleging that the second respondent has disobeyed and flouted the order passed by this Court on 29.04.2013 in Crl.OP No. 3372 of 2013. According to the first respondent, the order of closure dated 27.05.2015 passed by the second respondent is in gross violation of the order dated 29.04.2013 passed in Crl.OP No. 3372 of 2013. However, pending contempt proceedings, a case in Crime No. 23 of 2014 has been registered against the appellants for the alleged offence punishable under Section 420, 467, 468, 471 and 506 (i) of Indian Penal Code on 28.03.2014. Therefore, when the contempt petition was taken up for hearing, this Court, by an order dated 04.04.2014, closed the contempt petition No. 2477 of 2013 and directed the investigation officer to proceed with the investigation in Crime No. 23 of 2014 and to file a charge sheet before the competent Court within a period of four months. Pursuant to such direction, the respondent/police, after completion of investigation and analysing all the documents, closed the first information report by filing a referred charge sheet No. R.C.A. 07/14 on 29.09.2014. Aggrieved by the same, the first respondent has once again filed another Contempt Petition No. 692 of 2015 as against the second respondent herein alleging disobedience of the Order dated 04.04.2014 in Contempt Petition No. 2477 of 2013 by contending that the second respondent herein did not file a charge sheet, as directed by this Court. During the pendency of Contempt Petition No. 692 of 2015, the first respondent has preferred the instant Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015 under Order I Rule 10 (2) of the Code of Civil Procedure for impleading the appellants as party respondents to the contempt petition No.692 of 2015 on the allegation that the sale deed dated 05.06.2006 executed by the second appellant in favour of the first appellant is null and void and also to declare that the subsequent power of attorney deed dated 21.05.2010 executed by the first appellant also as void. On notice, the appellants have entered appearance on 05.10.2015 and filed a counter affidavit contending that they are not proper and necessary party to the contempt petition as they did not violate any of the directions issued by this Court. The appellants have also raised a preliminary objection with regard to the maintainability of the Sub-Application by stating that in the contempt proceedings, adjudication of title dispute is legally impermissible and consequently they sought for dismissal of the Sub-Application. In fact, when the Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015 was listed for hearing before the learned single Judge on 10.08.2016, the name of the counsel for the appellants was not printed in the cause list and therefore, the counsel for the appellants could not appear before the learned single Judge on the date of hearing of the Sub-application No. 607 of 2015 in Contempt Petition No. 692 of

2015. However, inspite of filing of the counter affidavit, the Sub-Application No. 607 of 2015 was ordered on 10.08.2016 and the appellants were impleaded as party respondents in Contempt Petition No. 692 of 2015. When the appellants came to know about the order dated 10.08.2016 passed by the learned single Judge impleading them as party respondents, they have filed Contempt Appeal SR No. 73597 of 2016. The Registry has raised a doubt as regards maintainability of Contempt Appeal SR No. 73597 of 2016, as it was filed against the interim order passed by the learned single Judge in Sub-Application No. 607 of 2015. Therefore, the matter was posted before the first Division Bench of this Court for maintainability on the ground that the contempt appeal is maintainable only when an order of punishment is passed in the contempt proceedings. When the Contempt Appeal SR No. 73597 of 2016 was listed for maintainability, the first Division Bench of this Court passed an order on 25.11.2016, which reads as follows:-

"The Contempt Appeal SR No. 73597 of 2016 is not maintainable in our view, in view of the pronouncement of the Hon'ble Supreme Court in Midnapore People's Coop. Bank Ltd., vs. Chunilal Nanda, (2006) 5 SCC 399. This fact was pointed out by the Registry to the learned counsel for the appellants and it is on his instance, the appeal has been listed - a complete wastage of judicial time.

The learned counsel now appearing for the appellants states that they will take steps to convert this appeal into an appropriate remedy available against the impugned order."

4. Thereafter, the present Letters Patent Appeal has been filed by the appellants challenging the order dated 10.08.2016 of the learned single Judge.

5. During the course of arguments in this appeal, the learned counsel for the first respondent vehemently contended that this appeal is not maintainable as against the interim order passed by the learned single Judge as it was neither a decree nor a judgment against which no appeal is maintainable under Clause 15 of the Letters Patent. Therefore, the learned counsel appearing for the appellants first addressed this Court with regard to the maintainability of this appeal.

6. According to the learned counsel for the appellants, as against the order passed by the learned single Judge, allowing the Sub-Application No. 607 of 2015, the appellants have filed Contempt Appeal SR No. 73597 of 2016. The Contempt Appeal SR No. 73597 of 2016 was posted for maintainability before the Honourable First Division Bench of this Court on the ground that the contempt appeal is maintainable only against the order imposing punishment in contempt proceedings and interlocutory order in contempt proceedings can be challenged by way of Letters Patent Appeal in view of the pronouncement of Honourable Supreme Court in Midnapore People's Cooperative Bank Limited vs. Chunnilal

Nanda reported in (2006) 5 SCC 389. The Counsel for the appellants further submitted that the first Division Bench of this Court has concluded that the appellants, who are aggrieved by the order of single Judge, should not be left without any remedy and therefore, when a representation was made by the counsel for the appellants that they are taking steps to convert the Contempt Appeal SR No.73597 of 2016 and seek for appropriate remedy, it was recorded by the first Division Bench of this Court in the order dated 25.11.2016. In this context, the learned counsel for the appellants have relied on the decision of the Honourable Supreme Court in Midnapore People's Cooperative Bank Limited vs. Chunnilal Nanda reported in (2006) 5 SCC 389 wherein the Honourable Supreme Court has held that any interlocutory order passed in the contempt proceedings prejudice to the interest of any of the parties can be challenged by way of Letters Patent Appeal under Clause 15 of Letters Patent.

7. That apart, the learned counsel for the appellants drawn the attention of this Court to the decision of the Division Bench of this Court in S.C. Sekar vs. Tamil Nadu Mercantile Bank Shareholders' Welfare Association (2008) (5) CTC 769 wherein it was held that an appeal preferred by the persons, who are not parties against an interlocutory order, is maintainable under Section 19 of The Contempt of Courts Act. In para No.14 of the order, the Division Bench held as follows:-

"14. The next question that arises for consideration is as to whether the appellants are entitled to file the present Contempt Appeals. In this context, it would be relevant to point out that this Court in exercise of the powers under Section 12 is entitled to punish the contemnor and in such event, the person who visited with such punishment is entitled as a matter of right to prefer an Appeal under Section 19 (1) (a) of the Act. In terms of Section 19 of the Act, an Appeal shall lie as of right from any order or decision of High Court in exercise of its jurisdiction to punish for contempt. To our mind, the said Section contains two parts. Firstly, an Appeal shall lie as of right from any order or decision of the High Court and secondly, such order or direction must be in exercise of its jurisdiction to punish for contempt. It need not necessarily, therefore, mean that only in such cases where this Court punishes the contemnor, an Appeal would lie and not when some adverse order is passed. If that interpretation is given to the said provision, the first limb of the said provision regarding the right to Appeal against any order or decision of the Court would lose its full meaning. Any order or decision passed by this Court while exercising its jurisdiction to punish the contemnor would mean the exercise of jurisdiction and the corresponding order or decision. In our opinion, even in case of

any order passed adversely affecting any person, certainly, he would be entitled to prefer an Appeal, as otherwise, he would be left with no remedy and only to visit with such adverse orders."

8. In this case, the learned single Judge, in a contempt proceedings, has passed an order impleading the appellants when they were not parties to the original contempt proceedings and therefore, the Contempt Appeal SR No. 73597 of 2016 was converted into one of Letters Patent Appeal pursuant to the order passed by the first Division Bench of this Court. In fact, in that case mentioned supra, a contempt appeal was filed by the aggrieved person under Section 19 of The Contempt of Courts Act in which an issue with regard to maintainability was raised on the premises that such an appeal is maintainable only against the order of punishment. The Honourable Division Bench overruled the objection and held that aggrieved person can maintain the appeal. As against order of the Division Bench, an appeal was filed before the Supreme Court contending that the Contempt Appeal is not maintainable and Letters Patent Appeal under Clause 15 alone is maintainable. The Honourable Supreme Court in the decision rendered in Tamil Nadu Mercantile Bank Shareholders' Welfare Association vs. S.C. Sekar (2008) (5) CTC 844 has held that an aggrieved person can maintain either Contempt Appeal or Letters Patent Appeal against interlocutory order, which was passed prejudicial to the interest of the party. In Para Nos. 50 and 51, it was held as follows:-

"50. Assuming that an appeal under Section 19 was technically not maintainable, having regard to the fact that the interim injunction was granted till disposal of the contempt application, in our opinion, it was a judgment within the meaning of Clause 15 of the Letters Patent of the Madras High Court.

51. We will, however, proceed on the assumption that no appeal was maintainable. An aggrieved person cannot be left without a remedy. Access to justice is a human right. In certain situations, it may also be considered to be a fundamental right."

9. The learned counsel for the appellants also relied on the unreported decision of this Court on 17.09.2018 made in LPA (MD) No. 1 of 2018 in Rt.Rev.S.E.C. Devasahayam, The Bishop of CSI, Tuticorin-Nazareth Diocese vs. R. Stanley Vedamanickam in which the Division Bench of this Court considered an identical issue where an interlocutory order was passed by the learned single Judge in a contempt proceedings against third parties. The aggrieved person preferred Letters Patent Appeal against the order of the learned single Judge impleading them as parties to the contempt proceedings. The Division Bench held that an aggrieved party can challenge an interlocutory order by an inter-court appeal and held that the appeal is maintainable

under Clause 15 of Letters Patent. In that judgment, the Division Bench of this Court also placed reliance on the decision of the Honourable Supreme Court in Midnapore People's Cooperative Bank Limited case to hold that if a decision is rendered in a contempt petition on the merits of the dispute between the parties, either by an interlocutory order or final judgment, the same is appellable under Clause 15 of Letters patent. In para Nos. 22 and 25, it was held as follows:-

"22. Applying the above settled positions of law to the case on hand, when we look into the order of the learned single Judge, it shows that the learned single Judge has not only decided CRP (PD) (MD) No. 820 of 2015, which was filed as against the interlocutory order in respect of a relief sought for the year 2013 election, but also considered CMP (MD) Nos. 4411, 4773, 4775, 5037, 5093, 5094 and 5095 of 2018, which came to be filed only in the year 2018, on fresh cause of action in respect of the election for the year 2018. The learned single Judge, while allowing the revision, set aside the election conducted in the year 2016, which was not the subject matter of the suit in O.S. No. 120 of 2013. The relief granted by the learned single Judge with regard to the election is beyond the scope of the suit itself. Such orders passed are based on the new cause of action alleged by the respondents 1 to 4 herein by way of C.M.P., in the year 2018.

.....

25. The order of the learned single Judge though appears to be interlocutory order, it continues to determine the rights of the parties and affected the valuable right of the parties. It is also to be noted that the election conducted for more than (2) Pastors is also set aside without their presence. Even assuming that the respondents 1 to 4 herein are entitled to contest the election, the election, at the most, can be set aside only in respect of their constituencies and not in its entirety. The order passed by the learned single Judge is based on the new cause of action. When such order certainly affects the rights of the parties, we are of the view that there is no difficulty in holding that the affected parties have got a right of appeal under Clause 15 of the Letters Patent."

10. For the very same proposition, the learned counsel for the appellants also relied on the decision of the Division Bench of the Delhi High Court in the case of (Gurmauj Saran Baluja vs. Mrs. Joyce C. Salim and others) reported in (1990) AIR Delhi 13 wherein the Delhi High Court

has held that the interlocutory order of impleadment affect vital and valuable right of parties and would enlarge the scope of the original proceedings, therefore, it can be challenged by an intera-court appeal. In para No.8 of the said Judgment, it was held as follows:-

"In the present case, the effect of the impugned order is that it enlarges the scope of the suit and directs the plaintiff to add a party against his wishes resulting in filing an amended plaint containing consequential amendments on the addition of a party. The addition of the party would also amount to a de novo trial as far as the party added is concerned. It cannot, therefore, be said that the impugned order is not a judgment. It does affect vital and valuable right of the plaintiff and decides matters of moment. The plaintiff has complained that the order has worked serious injustice to him. Therefore, I hold that the order is a judgment, within the meaning of sub-section (1) of Section 10 of The Delhi High Court Act, 1966 and is therefore appellable."

11. The learned counsel for the appellants also relied on the decision of the Division Bench of this Court in the case of S. Subramanian vs. P.M. Sundaram (O.S.A. Nos. 102 to 105 of 2005) dated 28.10.2015 to contend that an order of impleadment passed in an application filed under Order I Rule 10 of CPC can be challenged by an aggrieved person by way of a Letters Patent Appeal. Therefore, according to the learned counsel for the appellants, the remedy available to the appellants against the order of the learned single Judge is only to file the instant appeal besides the instant appeal has been filed after the first Division Bench of this Court recorded the submissions of the counsel for the appellants that they would seek appropriate remedy before the appropriate Forum. Therefore, it is submitted that the instant Letters Patent Appeal is maintainable.

12. The learned counsel appearing for the appellants would further vehemently contend that the Sub-application No. 607 of 2015 filed by the first respondent in Contempt Petition No. 692 of 2015 is an abuse of process of law and it is liable only to be dismissed. The first respondent, alleging disobedience of the earlier order passed by this Court in Contempt Petition No. 2477 of 2013, has filed the successive Contempt Petition No. 692 of 2015. The said contempt petition No. 2477 of 2013 was filed alleging disobedience of the order passed in CrI.OP No. 3372 of 2013. During the pendency of Contempt Petition No. 2477 of 2013, the second respondent therein has complied with the directions issued by this Court by registering a first information report in Crime No. 23 of 2014 on 28.03.2014. Further, in the Criminal Original Petition, the appellants were not arrayed as parties. By an order dated 24.04.2013 in CrI.OP No. 3372 of 2013, this Court only directed the investigation officer to deal with the complaint preferred by

the first respondent on 30.07.2012, if a cognisable offence has been made out in the complaint. Admittedly, pursuant to such direction, the Superintendent of Police (Anti Land Grabbing Cell)/Economic Offences Wing, Villupuram conducted a preliminary enquiry and closed the complaint of the first respondent herein as Civil in nature. When the complaint itself was closed on 27.05.2015 by the investigation officer, the remedy open to the first respondent is only to file a Protest Petition before the competent Criminal Court, however, by circumventing the procedure, the first respondent has filed the Contempt Petition No. 692 of 2015. According to the learned counsel for the appellants, the said contempt petition No. 692 of 2015 is nothing but an abuse of process of law and it is not maintainable. The said contempt petition has been filed seeking to punish the respondent therein for not filing the charge sheet before the competent Criminal Court. Even otherwise, the present contempt petition No. 692 of 2015 is not maintainable in view of the fact that a referred charge sheet has been filed before the competent Criminal Court. While so, the present petition filed by the first respondent in Sub-Application No. 607 of 2015 to implead the appellants is per se not maintainable since the first respondent is seeking to adjudicate a title dispute between the parties by enlarging the scope of contempt proceedings by impleading the appellants as party respondents to the contempt proceedings. When the appellants were not party respondents to the Criminal Original Petition No. 3372 of 2013 as well as the first Contempt Petition No. 2477 of 2013, impleading the appellants in the subsequent contempt petition No. 692 of 2015 is unwarranted that too to decide a civil dispute. Therefore, the appellants fall within the scope and definition of 'aggrieved persons' who are aggrieved by the order passed by the learned single Judge impleading them as party respondents in the contempt proceedings. In such view of the matter, the appellants are entitled to maintain the present Letters Patent Appeal.

13. The learned counsel for the appellants would further contend that they are not proper and necessary party to the Contempt Petition No.692 of 2015 nor did they violate any of the order passed by the learned single Judge. While so, the learned single Judge ought not to have allowed the application to implead the appellants as parties to the Contempt Petition No. 692 of 2015 by allowing the Sub-application No. 607 of 2015. The filing of the Sub-Application is nothing but an attempt on the part of the first respondent to wreck vengeance against the appellants. The learned single Judge, without considering the above said factual aspects, has allowed the Sub-application and impleaded the appellants as party respondents in Contempt Petition No. 692 of 2015.

14. The learned counsel for appellants would further submit that even before filing the vexatious criminal Complaint against the appellants and succeeding in prosecuting them before the Criminal Forum, the first

respondent has filed a suit in O.S. No. 341 of 2006 before the District Munsif Court, Tindivanam against the appellants herein for a bare injunction. The subject matter of the suit in O.S. No. 341 of 2006 and the criminal acts alleged against the appellants in the Criminal proceedings are one and the same. In fact, in the suit, an ex parte decree was passed against the appellants and to restore the same, the appellants have filed I.A. No. 874 of 2006. The trial Court allowed the application for restoration against which the first respondent has filed C.R.P. No. 2196 of 2011 and it was dismissed by this Court on 21.08.2017. Thus, on the one hand, the first respondent proceeded against the appellants before the Civil forum by instituting a suit and during the pendency of the suit, he has launched criminal prosecution against the appellants before the Criminal Forum. Notwithstanding the aforesaid parallel proceedings launched by the first respondent, one before the Civil Court and the other before the Criminal Forum, the first respondent impleaded the appellants in the contempt proceedings initiated against the official respondents, without even adding the appellants in the original proceedings. According to the learned counsel for the appellants, such an attempt on the part of the first respondent in impleading the appellants in the contempt proceedings is nothing but an abuse of process of law. Even the relief sought for in the contempt petition No. 692 of 2015 itself becomes infructuous inasmuch as it was filed only on the ground that the investigation officer did not file the charge sheet. In fact, a referred charge sheet has been filed by the investigation officer and therefore, it is for the first respondent to work out his remedy by filing a protest petition before the concerned Court. While so, the Sub-Application No. 607 of 2015 filed by the first respondent is per se not maintainable and it was not properly considered by the learned single Judge. The learned counsel for the appellants also contended that by impleading the appellants, the scope of the dispute involved in the contempt petition gets enlarged and the appellants were unnecessarily impleaded to undergo the ordeal of defending the vexatious litigation engineered at the instance of the first respondent. Above all, it was contended that the learned single Judge, inspite of the filing of counter affidavit by the appellants, opposing the application for impleadment, has passed a cryptic order without assigning any reasons. In effect, according to the learned counsel for the appellants, the impugned order is a non-speaking order without assigning any reason. The learned counsel for the appellants therefore prayed for allowing this appeal by setting aside the order passed by the learned single Judge.

15. Per contra, the learned counsel appearing for the first respondent would, at the outset, with respect to the maintainability of this appeal, contend that the instant Letters Patent Appeal is not maintainable as the order, which is challenged in this appeal, is not a final order determining the rights of the parties and it is interlocutory in nature. According to the learned counsel for the first

respondent, Clause 15 of amended Letters Patent reads that no appeal lies against the interlocutory order, which does not take away the rights of the parties. The order passed in Sub-application No. 607 of 2015 in Contempt Petition No. 692 of 2015 to implead the appellants is an interlocutory in nature and the mere impleadment of the appellants does not derive the appellants to espouse their case and to adjudicate their rights. Thus, the order passed by the learned single Judge is neither a judgment nor a decree against which no appeal is maintainable under Clause 15 of the Letters Patent. The learned counsel for the first respondent would further contend that there is no express provision or direction by a competent Court which enables the appellants to maintain this appeal against interlocutory non-speaking orders. In this context, the learned counsel for the first respondent would place reliance on the decision of the Honourable Supreme Court in the case of *Middhapore Peoples Cooperative Bank and others vs. Chunilal Nanda and others* reported in (2006) 5 Supreme Court Cases 399, which was also relied on by the learned counsel for the appellants, wherein in para No.16, it was held as follows:-

"16. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories:-

- (i) Orders which finally decide a question or issue in controversy in the main case
- (ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case
- (iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case
- (iv) Routine orders, which are passed to facilitate the progress of the case till its culmination in the final judgment
- (v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.

The term 'judgment' within the meaning of Clause 15 of the Letters Patent will take into its fold not only the judgments, as defined in Section 2 (9) CPC and orders enumerated in order 43 Rule 1 of CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties. Interlocutory orders, which will fall under categories (i) to (iii) above, are therefore, judgments for the purpose of filing appeals under the Letters

Patent. On the other hand, orders falling under categories (iv) and (v) are not judgments for the purpose of filing appeals provided under the Letters Patent.

16. By pointing out to the above judgment, the learned counsel for the first respondent would contend that routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment or orders which may cause inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties are not judgments for the purpose of filing appeals provided under the Letters Patent. In the present case, the rights of the appellants, by virtue of their impleadment, has not been finally determined and the order of impleadment is in the nature of an interlocutory order, therefore, the appeal filed thereagainst by the appellants is not maintainable.

17. The learned counsel for the first respondent also relied on the Honourable Supreme Court in the case of Sitaram vs. Balbir @ Bali passed in Contempt Petition (Civil) No. 374 of 2014 in Criminal Appeal No. 1834 of 2013 wherein it was held in para-24 as follows:-

".....I think that the following propositions may be stated as to the consequences which ensue when there are acts of omissions which are contrary to the terms of injunction. (1) The person against whom the Order is made will be liable for contempt of Court if he acts in breach of the Order after having notice of it (2) A third party will also be liable if he knowingly assists in the breach, that is to say if knowing the terms of the injunction, he wilfully assists the person to whom it was directed to disobey it. This will be so whether or not the person enjoined has had notice of the injunction. I will give my reasons for the second proposition and take first the question of prior notice to the defendant. It was argued that the liability of the third person arose because he was treated as aiding and abetting the defendant (i.e., was an accessory) and as the defendant could himself not be in breach unless he had notice it followed that there was no offence to which the third party could be an accessory. In my opinion this argument misunderstands the true nature of the liability of the third party. He is liable for contempt of court committed by himself. It is true that his conduct may very often be seen as possessing a dual-character of contempt of court by himself and aiding and abetting the contempt by another, but the conduct will always amount to contempt by himself. It will be conduct which knowingly interferes with the administration of justice by causing the Order of the court to be thwarted.

The extent of liability of third party in such actions was considered by the House of Lords in Attorney General v. Times Newspapers Ltd. and another. In that case the Attorney General had brought action against two newspapers seeking permanent injunction restraining them from publishing material from a book written by a person who was formerly a member of the security service and by terms of his employment was bound by confidentiality which would stand breached if his memoirs were published. While the interlocutory injunctions restraining publication of the material pending trial of such action was granted against those two newspapers, three other newspapers published extensive extracts and summaries of the book following which proceedings for criminal contempt against them were brought by the Attorney General.....

18. By placing reliance on the aforesaid decisions, the learned counsel for the first respondent would contend that even though the appellants are third parties to the contempt petition No. 692 of 2015, still they are liable to be proceeded with if it is shown that they have abetted and aided the respondent in the contempt petition to thwart the course of justice. Having regard to the above, the learned single Judge has allowed the impleading application to implead the appellants in the Contempt Petition No. 692 of 2015, however, such an order has not finally determined the right of the parties. Therefore, the learned counsel for the first respondent would contend that the present appeal is not maintainable and it is liable to be dismissed.

19. As far as the facts of the case is concerned, the learned counsel for the first respondent contended that the wife of the first respondent herein namely Mrs. Chandravanitha has purchased the property in Survey No.157 (New Survey No.59/4B) ad-measuring 2.66 acres out of 11.13 acres situated at Salavathy Village, Tindivanam Taluk through an auction conducted by the Court on 11.01.1996 after declaring the original owner of the land Mr. Nandagopal Chettiar as an insolvent. The Official Receiver appointed by the Court had executed a sale certificate dated 27.02.1996 in favour of the wife of the first respondent and it was registered as document No.290 of 1996 on the file of the Sub-Registrar, Avarapakkam. According to the counsel for the first respondent, the wife of the first respondent died intestate on 05.10.2006 leaving behind the first respondent, his three sons and a daughter as her legal heirs. After the death of the wife of the first respondent, the auction sale in favour of the deceased Chandravanitha has been confirmed by this Court by judgment dated 06.03.2015 passed in S.A. No. 1240 of 2015. Thus, the first respondent and his children are the absolute owner of the property mentioned above. While so, in order to grab the above property, the fourth respondent herein had fraudulently executed a sale deed dated

05.03.2006 registered as document No. 1103 of 2006 on the file of the third respondent herein, in favour of the first appellant herein. According to the counsel for the first respondent, such sale deed has been executed by the fourth respondent in collusion with the third respondent and that the sale deed was executed without any right over the property. Therefore, the first respondent has instituted the suit in O.S. No. 341 of 2006 before the District Munsif Court, Tindivanam for bare injunction. Pending suit, the Civil Court has also granted an order of interim injunction. Subsequently, the suit was decreed ex parte on 18.07.2009, however, the appellants have filed an application to restore the suit. The trial Court allowed the application for condonation of delay and restored the suit, against which the first respondent has filed CRP (PD) No. 2196 of 2011 before this Court and the same was dismissed by this Court on 21.08.2017.

20. With respect to the Contempt Proceedings, the learned counsel for the first respondent would contend that the appellants are proper and necessary party for adjudication of the Contempt Petition No. 692 of 2015. Event though the appellants were not arrayed as party to the earlier Contempt Petition No. 2447 of 2013 or in the CrI.OP No. 3372 of 2013 filed by the first respondent, yet, the impleadment of the appellants in the contempt proceedings has become necessary and therefore, the first respondent has taken out the application in Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015 to implead them as party respondents and also to declare that the sale deed and power of attorney executed in their favour is null and void. Having regard to the above facts and circumstances of the case, the learned single Judge has rightly allowed the application for impleading the appellants. By impleading the appellants as parties to Contempt Petition No. 692 of 2015, no prejudice will be caused to them as they will also be heard before passing final orders in the Contempt Petition and it is well open to them to file a counter affidavit to prove that they have not committed any disobedience of the directions issued by this Court. Therefore, the learned counsel for the first respondent prayed for dismissal of the appeal.

21. On the above contentions, we have heard the learned Government Advocate appearing for the respondents 2, 3 and 5 and also the learned counsel for the fourth respondent and perused the materials placed on record. Having regard to the rival submissions made, the following questions arise for consideration in this appeal and they are:

Whether the instant Letters Patent Appeal filed by the appellants, on the ground that they are persons aggrieved against the order passed by the learned single Judge, impleading them as parties to the contempt proceedings, is maintainable, when they are not parties to the original proceedings and no direction or order was passed against them.

22. In this appeal, the appellants have assailed the order passed by the learned single Judge allowing the Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015 filed by the first respondent and thereby impleading the appellants herein as parties to the contempt petition No.692 of 2015. According to the appellants, they are not proper and necessary party to the Contempt Petition No.692 of 2015, which was originally filed by the first respondent against the second respondent herein for allegedly disobeying the order passed by this Court in Contempt Petition No. 692 of 2015. By virtue of filing the Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015, the first respondent had virtually attempted to enlarge the scope of the contempt petition and that was not properly considered by the learned single Judge while ordering to implead the appellants herein as party to the contempt petition. Per contra, the learned counsel for the first respondent would contend that the learned single Judge has only impleaded the appellants in the contempt proceedings and by impleading the appellants, no prejudice will be caused to them and they will be heard before passing final orders in the contempt proceedings. Moreover, the order passed by the learned single Judge will not fall within the definition of 'judgment' and consequently, the present appeal under Clause 15 of the Letters Patent is not maintainable. As per Clause 15 of the Letters patent, no appeal will lie against the interlocutory order, which does not take away the rights of the parties. The order passed by the learned single Judge impleading the appellants is only interlocutory in nature and it will not prejudice the appellants in any manner. By virtue of such interlocutory order, the rights of the parties to the contempt petition has not been determined. Therefore, according to the learned counsel for the first respondent, the instant letters patent appeal is not maintainable.

23. In the light of the above rival submissions, it is necessary to examine as to whether impleading the appellants as party respondents to the Contempt Petition would result in effective and proper disposal of the Contempt Petition or not. However, before dealing with the same, it is necessary to examine whether the argument of the counsel for the first respondent that the instant appeal is maintainable or not under Clause 15 of Letters Patent has to be considered.

24. Admittedly, as against the order passed by the learned single Judge, which is impugned in this appeal, the appellants have filed Contempt Appeal SR No. 73597 of 2016 before the first Division Bench of this Court. When Contempt Appeal SR No. 73597 of 2016 was listed before the first Division Bench for maintainability, by order dated 25.11.2016, the Division Bench of this Court held that the Contempt Appeal is not maintainable. However, in the very same order dated 25.11.2016, the submissions made on behalf of the appellants to convert the Contempt Appeal SR No. 73597 of 2016 and to seek for appropriate remedy under the law to

challenge the order dated 10.08.2016 of the learned single Judge was recorded. This is how the present Letters Patent Appeal was numbered.

25. In the Sub-application No. 607 of 2015 in Contempt Petition No. 692 of 2015, the first respondent has sought for the relief of not only impleading the appellants as party respondents but also want to declare the sale deed dated 05.06.2006 and the Deed of Power of Attorney dated 21.05.2010 as null and void. For more clarity, the prayer sought for by the first respondent in Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015 is verbatim reproduced hereunder:-

"(1) To implead the proposed respondents as respondents 2 to 6 in the above Contempt Petitioner

(2) To declare the sale deed dated 05.06.2006 registered as document No.1103 of 2006 executed in the office of the Sub-Registrar, Avrapakkam is null and void

(3) To declare the Deed of Power of Attorney dated 21.05.2010 registered as document No. 139 of 2010 executed in the office of the Sub-Registrar, Marakkanam is null and void...

26. Thus, the first respondent has chosen to seek the relief of not only impleading the appellants and others as party respondents in the Contempt Petition No. 692 of 2015 but also for a declaration to declare the sale deed as well as power of attorney as null and void, that too in a contempt proceedings. We are at a loss to understand as to how such a relief could be maintained or granted by this Court in a Contempt Proceedings. By filing the present Sub-application, we are certain that the first respondent attempted to enlarge the scope of adjudication in the Contempt Petition No. 692 of 2015, to which he is not entitled to. Therefore, we hold that in view of the prayer made in the sub-application No. 602 of 2015, the impleadment of the appellants as party respondents to Contempt Petition No. 692 of 2015 is unnecessary. In the sub-application No. 607 of 2015 in Contempt Petition No. 692 of 2015, the first respondent to adjudicate a title dispute which cannot be the subject matter of contempt petition. Thus, by impleading the appellants in the contempt petition, they were made to undergo the ordeal of defending a vexatious litigation engineered at the instance of the first respondent. In such view of the matter, in our view, the appellants will come within the scope and ambit of 'aggrieved persons' and they are entitled to maintain the present appeal against the order passed by the learned single Judge impleading them as party respondents to the contempt petition. In this context, we are fortified by the decision of the Division Bench of this Court rendered in S. Subramanian vs. P.M. Sundaram (O.S.A. No. 102 to 105 of 2005 dated 28.10.2005 where an identical question of maintainability arose for consideration. The Division Bench held that when impleadment was refused by the learned single Judge, then it will be a judgment within the meaning of

Clause 15 of the Letters Patent and the appeal is maintainable. In Para Nos. 11, 14, 15 and 16, the Division Bench of this Court held as follows:-

"11. The main question is whether the application for impleading S. Devisri as a defendant in the suit should have been allowed or not. However, such a question can be decided in the present appeals, only if it is found that the order refusing to implead such a party as a defendant is a judgment within the meaning of Clause 15 of the Letters Patent.

....

14. In our opinion, if the learned single Judge simply rejects an application for impleading of a defendant and thereafter refuses to amend the plaint by inclusion of a property of such proposed defendant, without expressing any final opinion in the matter and only on a prima facie view, such order may not be a judgment within the meaning of Clause 15 of the Letters Patent as rights of the parties are not finally decided and the applications are rejected merely on the basis of prima facie expression of some opinion.

15. However, since in the present case, the learned single Judge, while rejecting the application for impleading of a defendant and inclusion of the property purchased in the name of such proposed defendant has practically purported to decide the rights of the parties by making a final observation, it would not be proper to hold that such order of the learned single Judge would not come within the meaning of the 'judgment.'

16. In the peculiar facts of the present case, in view of the categorical observation made by the learned single Judge on the particular aspect, in our opinion, the order can be taken to be a 'judgment' within the meaning of clause 15 of the Letters Patent. Therefore, the appeals can be held to be maintainable in the peculiar facts and circumstances."

27. The said judgment will squarely apply to the facts of the present case on hand. In the present case, the appellants were impleaded as party respondents and they have filed the present appeal as aggrieved persons. Therefore, treating the appellants herein as aggrieved person, the present appeal filed by them will come within the scope and ambit of Clause 15 of Letters Patent for adjudication. The Honourable Supreme Court also, in the case of Tamil Nadu Mercantile Bank Shareholders' Welfare Association vs. S.C. Sekar (2008) (5) CTC 844 held that "even assuming that an appeal under Section 19 of The Contempt of Courts Act is not technically maintainable, having regard to the fact that

interim injunction was granted till the disposal of the contempt application, it was a judgment within the meaning of Clause 15 of the Letters Patent of the Madras High Court. It was further held that assuming that an appeal was not maintainable, an aggrieved person cannot be left without a remedy. Access to justice is a human right and in certain situations, it may also be considered to be a fundamental right." Thus, it was held by the Honourable Supreme Court in the above case that an appeal preferred by persons, who are not parties to a contempt proceedings against interlocutory order, though is not technically maintainable under Section 19 of The Contempt of Courts Act, it is a judgment within the meaning of clause 15 of The Letters Patent if right of any person is adversely affected by way of any interim order, such persons would be entitled to prefer an appeal, as otherwise, he would be left with no remedy and only to visit with such adverse orders. Though it is stated that the order passed by the learned single Judge is not a final order, when such an order passed by the learned single Judge certainly prejudices the appellants, they are entitled to assail the order by filing the instant Letters Patent Appeal. Therefore, we are not inclined to accept the submission of the counsel for the first respondent that by impleading the appellants in the contempt proceedings, the matter was not finally adjudicated or the said order no way prejudices the appellants.

28. In this case, we find that there is no cause of action to implead the appellants in the Contempt Petition No. 692 of 2015. Admittedly, the appellants were not parties to the Criminal Original Petition No. 3372 of 2013 or Contempt Petition No. 2477 of 2013, while so, seeking to implead the appellants in the subsequent Contempt Petition No. 692 of 2015 would only indicate that such impleadment was sought without any cause of action. In fact, in the affidavit filed in support of the Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015, there was no reason assigned as to why the appellants are sought to be impleaded or what is sought to be achieved by impleading them in the contempt proceedings. The affidavit merely re-produces the factual claim of the first respondent with respect to the purchase of the property in favour of his wife in the Court auction, the sale deed executed in her favour and the eventual death of the wife of the first respondent and thereby the first respondent and his children have succeeded to the estate of the deceased wife of the first respondent. There was no new cause of action assigned for impleading the appellants and the affidavit of bereft of any material particulars. The contempt petition No. 692 of 2015 was filed as against the second respondent herein alleging that he did not file a charge sheet, as directed by this Court in the earlier Contempt Petition No. 2477 of 2013. In the earlier Contempt Petition No. 2477 of 2013, the appellants herein were not parties, while so, impleading them in the subsequent Contempt Petition No. 692 of 2015 would only enlarge the scope of the contempt proceedings. In such view of the matter, we hold

that the instant appeal filed by the appellants is maintainable under Clause 15 of Letters Patent and the argument of the counsel for the first respondent with regard to maintainability of the appeal is rejected.

29. With respect to merits of the case, the first respondent, alleging that the appellants herein, in collusion with the fourth respondent herein as also the registration authorities had created encumbrance over his property and had given a complaint dated 30.07.2012 to the Superintendent of Police, Villupuram. Alleging that the Superintendent of Police, Villupuram did not take any action on the complaint filed by the first respondent on 30.07.2012, he has approached this Court with Crl.OP No. 3372 of 2013 in which this Court issued a direction on 29.04.2013 directing the investigating agency to cause appropriate investigation on the complaint dated 30.07.2012 of the first respondent and to proceed further if it discloses a cognisable offence. After causing necessary investigation, the Deputy Superintendent of Police, Villupuram, to whom the investigation was entrusted, has filed a report dated 27.05.2013 intimating that the complaint did not disclose any cognisable offence, rather, the dispute involved in the complaint is only a civil dispute which has to be adjudicated by the competent Civil Forum. At this stage, it is necessary to mention that as against the order dated 27.05.2013 of the Deputy Superintendent of Police, Villupuram treating the complaint given by the petitioner as closed, the first respondent ought to have filed necessary protest petition before the competent Jurisdictional Magistrate before whom the closure report dated 27.05.2015 was filed. However, without doing so, the first respondent had chosen to approach this Court with a contempt petition No. 2477 of 2013 complaining that even though this Court directed the investigation officer to deal with the complaint, if there exists a cognisable offence, the Deputy Superintendent of Police, Villupuram has closed the complaint. In fact, the first Contempt Petition No. 2477 of 2013 itself is not maintainable inasmuch as when once the Investigation officer conducted an investigation and closed the complaint, he cannot be proceeded with contempt thereby compelling him to register a case against the persons named in the complaint. Thus, by reason of filing of the Contempt Petition No. 2477 of 2013, the second respondent had registered a first information report against the appellants herein in Crime No. 23 of 2014 on 28.03.2014 alleging commission of offences punishable under Sections 420, 467, 468, 471, 506 Part II of IPC. In any event, upon registration of the case, this Court closed the Contempt Petition No. 2477 of 2013 on 04.04.2014 with a passive observation to proceed to file charge sheet within a period of four months. The first respondent, notwithstanding the closure of Contempt Petition No. 2477 of 2013, proceeded to file the second contempt petition No. 692 of 2015 alleging that the charge sheet was not filed within the time stipulated in the order dated 04.04.2014 passed in Contempt Petition No. 2477 of 2013. The fact remains that during the

pendency of Contempt Petition No. 692 of 2015, a referred charge sheet was filed and therefore, the Contempt Petition No. 692 of 2015 itself is liable only to be closed. In fact, the Contempt Petition No. 692 of 2015 was listed for hearing on 12.10.2015, 27.10.2015, 29.10.2015, 24.02.2016, 10.08.2016, 31.08.2016, 02.09.2016 and 14.09.2016. However, it appears that the factum of filing of charge sheet was not brought to the notice of the learned single Judge either by the first respondent herein or the respondent in Contempt Petition No. 692 of 2015, with the result, the Contempt Petition No. 692 of 2015 was kept pending. The first respondent himself ought to have brought to the notice of this Court regarding the referred charge sheet filed against the appellants. Instead, the first respondent had thought it fit to file the instant Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015, which is not in good taste. In fact, in Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015, the first respondent not only sought for impleading the appellants as party respondents in Contempt Petition No. 692 of 2015, but also sought for innocuous relief of declaring the sale deed and power of attorney deed dated 21.05.2010 as null and void, which are to be sought for only before the Civil Court.

30. At this stage, we are also inclined to point out that the Contempt Petition No. 692 of 2015 itself was filed complaining that the investigation officer did not file the charge sheet within the period of four months granted by this Court in the earlier Contempt Petition No. 2477 of 2013. However, the fact remains that the investigation officer also filed a referred charge sheet before the Criminal Forum and therefore, the relief sought for in the Contempt Petition No. 692 of 2015 itself has become infructuous. Notwithstanding the same, the subsequent Contempt Petition No. 692 of 2015 was filed on 14.08.2015. On notice, the investigation officer namely the Deputy Superintendent of Police, District Crime Branch, Villupuram has filed a status report on 19th August 2015 indicating the compliance of the order passed by this Court in the order dated 04.04.2014 in Contempt Petition No. 2477 of 2013 inter alia intimating the factum of filing of a referred Charge Sheet before the Special Court (Land Grabbing Cases), Villupuram on 17.08.2015. Above all, the appellants also, on notice in Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015, filed a counter affidavit during October 2015. It is also seen from the records that the Sub-application No. 607 of 2015 was listed for hearing on several dates, as indicated supra. However, when the Sub-Application No. 607 of 2015 was taken up for hearing on 10.08.2016, it appears that the counsel for the appellants did not appear since their name was not printed in the cause list. However, on that day, the learned single Judge passed the order allowing the application for impleading the appellants herein as parties to the contempt petition No. 692 of 2015. Even otherwise, the order dated 10.08.2016 did not deal with the status report filed by the investigation officer or the counter filed by the appellants

opposing their impleadment. Rather, a cryptic order was passed on 10.08.2016 by the learned single Judge to implead the appellants, without assigning any reason.

31. It is no doubt true that any person can be impleaded in a suit or proceeding if his or her presence is necessary for proper adjudication of the case. In the present case, it cannot be said that only by impleading the appellants in the Contempt Petition No. 692 of 2015, the Contempt Proceedings could be adjudicated effectively. In fact, the contempt petition No. 692 of 2015 was filed by the first respondent complaining that the second respondent did not file the charge sheet within the time indicated in the order dated 04.04.2014 passed in Contempt Petition No. 2477 of 2013. The scope of the contempt petition itself is to examine as to whether there was any wilful or deliberate intention on the part of the Superintendent of Police, Villupuram in not filing the charge sheet within the time frame. Even otherwise, at the risk of repetition, it is to be stated that a referred charge sheet itself was filed and it was also stated in the status report filed by the Deputy Superintendent of Police. While so, it is not as though the contempt petition No. 692 of 2015 could be effectively adjudicated by seeking the response of the appellants herein, who are in no way connected with the contempt proceedings. Therefore also, we hold that the appellants are not proper and necessary for adjudication of Contempt Petition No. 692 of 2015 in any manner. Above all, for the very same dispute which is the subject matter of the suit in O.S. No. 341 of 2006 filed by the first respondent has given a complaint on 30.07.2012 before the Superintendent of Police, Villupuram, which is the subject matter of Contempt Petition No. 2477 of 2013 and Contempt Petition No. 692 of 2015. Therefore also, we are of the view that the impleadment of the appellants in Contempt Petition No. 692 of 2015 is not warranted.

32. It is well settled that the authority to punish a person in contempt proceedings is a powerful weapon in the hands of the judiciary and the same has to be exercised with caution. Such power cannot be used unless it is shown that a person against whom an order or direction was issued failed to comply with such direction or order deliberately and intentionally which would have the effect of causing interference in the administration of justice. In other words, the exercise of Contempt Jurisdiction has to be resorted only to uphold the Majesty of the Judiciary as a whole. Before initiating a contempt proceedings against a person or impleading a person in a contempt proceedings seeking his or her response, it has to be ensured that persons who never violated or flouted the order should be spared and they need not be called upon to undergo the ordeal of a contempt proceedings at the instant of gullible litigant like the first respondent herein. It is needless to mention that this is one of the classic examples as to how the process of this Court could be subverted by engineering a design to harass the persons like the appellants, who were

made to undergo the ordeal of defending a vexatious litigation designed by the first respondent by filing the Sub-Application No 607 of 2015 to implead the appellants.

33. In the result, we set aside the Order dated 10.08.2016 made in Sub-Application No. 607 of 2015 in Contempt Petition No. 692 of 2015 and the Letters Patent Appeal is allowed as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub-Registrar
Avaarapakkam
Tindivanam, Villupuram District

2. The Sub-Registrar
Marakkanam
Villupuram District

3. The Special Judge,
Hand Grabbing Cases, Villupuram.

+1cc to Mr.S. Mohammed Uduman , Advocate SR.No. 7684
in LPA No. 2 of 2017

A.SK(01/05/2019)

सत्यमेव जयते

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