

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cont.P.No.2061 of 2017

P.Ramasamy,
S/o.Perumal,
No.882/6, M.T.H.Road,
Padi,
Chennai-600050.

... Petitioner

vs.

1.Mrs.E.Sundaravalli,
The District Collector,
Thiruvallur District,
Thiurvalur-602001.

2.Mr.D.Baskaran,
The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai-600 053.

.. Respondents

Prayer : Petition filed under Section 11 of Contempt of Courts Act 1971, praying to punish the respondents for committing Contempt of Court by wilfully disobeying the order passed in W.P.No.19870 of 2017 Dated 17-08-2017.

For Petitioner .. Mr.V.Chandraprabu

For Respondents .. Mrs.P.Rajalakshmi, AGP

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner in the contempt petition, is the petitioner in WP.No.19870/2017 and alleging willful disobedience and non-compliance of the order dated 17.08.2017 passed in the said writ petition, came forward to file the present petition for contempt.

2 The learned counsel for the petitioner would submit that the petitioner was granted assignment of the land, admeasuring to an extent of 240 sq.ft., in Survey No.320/2C at Padi Village, Ambattur Taluk, Tiruvallur District and there was a Deed of Grant dated 10.07.2009 executed between the petitioner and the Governor of Tamil Nadu, granting lease of the land for a period of five years, subject to the payment of the entire amount in advance at the rate of Rs.6000/- per annum to the credit of General Revenues of the State, as a result of his occupation of the land for three years. Learned counsel has also drawn the attention of this Court to clause No.27 of the said Deed of Grant and would submit that as per the said clause, the lease has to be renewed on its period of expiry subject to the condition that the lessee shall pay the lease amount which may be tentatively arrived at by adding the percentage of provisional increase in lease on the tentative value of the land of 12% per annum to the lease year/reference year till its renewal/revision of rent that may be fixed.

3 The Grant came to be expired on 09.07.2014 and thereafter, it is the claim of the petitioner that he started paying the increase in the lease amount with an increase of 12% per annum @ Rs.10575/-. The grievance now expressed by the petitioner is that this Court, while permitting the petitioner to withdraw the writ petition, has passed an order on 17.08.2017, granting him liberty to approach the Revisional Authority within a period of four weeks from the date of receipt of a copy of that order and till such time, had directed the respondents 3 and 4 in the writ petition, viz., the Collector of Tiruvallur District and the Tahsildar of Ambattur Taluk at Ambattur, Tiruvallur District, to defer further proceedings in terms of the impugned notice dated 24.07.2017 issued by the 3rd respondent therein and the Revisional Authority was also directed to entertain the revision petition if the papers are otherwise in order and give a disposal in accordance with law, as expeditiously as possible within a period of eight weeks thereafter and communicate the decision taken, to the petitioner. The copy of the order was made ready on 21.09.2017 and it was taken delivery on 03.10.2017. In the interregnum, there was a rival claimant, viz., Mr.Ponsingh, which resulted in the registration of the case in Crime No.269/2016 by T-3 Korattur Police Station under section 145 [3] Cr.P.C. and the Revenue Divisional Officer, vide proceedings dated 21.09.2017 in Na.Ka.No.2117/2017/A2, has rejected the claim of the petitioner as well as Ponsingh in respect of the lands in question and no

further challenge has been made to the said proceedings and it has become final.

4 It is the primordial submission of the learned counsel for the petitioner that despite the respondents 3 and 4 in the writ petition became aware of the order for the reason that the order was passed in the presence of the learned Government Pleader, the demolition was carried out in the early morning hours on 08.10.2017 and therefore, the order passed by this Court has been deliberately flouted and violated with absolute impunity by the respondents/contemnors and therefore, prays for stringent punishment.

5 The 2nd respondent has filed an affidavit dated 25.09.2018 and the said affidavit would disclose the following facts. The land in S.No.320/2C of Padi Village, Ambattur Taluk, admeasuring to an extent of 240 sq.ft., which is classified as 'dry assessed waste', was originally leased out to the petitioner and it was lastly granted in G.O.Ms.No.175 of Revenue [N1 Mu] Department dated 26.05.2009 for a period of five years with effect from 22.04.2008 and the lease period expired on 21.04.2013 and despite expiry of the lease, the petitioner did not hand over the possession to the Government and he filed various litigations. One Ponsingh was also in occupation of the part of the land in S.No.320/2B unauthorisedly and in this regard, one Mr.K.K.Rajan had filed WP.No.29831/2016 and this Court, vide order dated 29.08.2016, directed the concerned

authorities to remove the encroachments in S.Nos.320/2B and 320/2C and hence, necessary action was taken under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and he also filed a revision u/s.10[1] of the said Act which was rejected by the 1st respondent on 24.07.2017. In the light of the said rejection, eviction was partly done on 31.07.2017 and the petitioner made a request for grant of a week's time to clear the rest of the encroachment and acceding to the said request, the jurisdictional Tahsildar left the place and however, the petitioner filed WP.No.19870/2017 and got an order of status quo and this Court has passed an order on 17.08.2017, dismissing the writ petition as withdrawn and however, passed an order, directing the respondents 3 and 4 therein to defer further proceedings and in the mean time, the petitioner made a complaint alleging that the Ponsingh had demolished the superstructure.

6 In paragraph No.8 of the said affidavit, it is averred by the 2nd respondent that in the light of the order dated 13.03.2018 made in WP.No.3491/2018, Mr.Ponsingh had removed the encroachment on

10.06.2018 itself and in paragraph No.17, has denied the allegation and also made a statement that the alleged demolition as projected by the petitioner, was not done by the respondents or any other revenue officials.

7 Mrs.P.Rajalakshmi, learned Additional Government Pleader instructed by Mrs.Maheswari Ravikumar, IAS, Collector of Tiruvallur District ; Mr.N.S.Siraj Babu, Tahsildar, Ambattur Taluk, Tiruvallur District and Mr.Narasiman, Huzur Suratar, H.S.Chennai District, made a statement that the lands in S.Nos.320/2B admeasuring to an extent of 0.055 Ares and the lands in S.No.320/2C, admeasuring to an extent of 0.90 Areas, as on today, remain as vacant lands and the entire extent of the lands in the said survey numbers, vest with the Revenue Department of the Collectorate of Chennai and presently, the Tahsildar, Ambattur Taluk, Tiruvallur District is in the custody and possession of the said lands. It is her further submission that insofar as the land in S.No.320/2B is concerned, recommendation has been made to re-classify the same as ''Police Department - Government Poramboke''. It is also the submission of the learned Additional Government Pleader on instructions that the lands in question may also be required for future expansion of chennai-Tirupathi National Highways.

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8 From a perusal of the typed set of documents filed by the petitioner would disclose among other things that this Court, while issuing certain directions at the time of withdrawal of the writ petition on 17.08.2017, it appears that there was no communication emanated from the petitioner as to the passing of the said order. The petitioner, even in the

communication dated 18.08.2017 addressed to the Revenue Divisional Officer, Ambattur Division, Chennai-101, did not disclose about the said order, may be on account of the reason that it pertains to the proceedings under section 145 Cr.P.C. Thus, in the absence of any specific indication as to the knowledge of the said order coupled with the fact as to whether the demolition was carried on by Mr.Ponsingh alone or in connivance with the Revenue Officials, this Court is of the considered view that no clear case of contempt has been made out. The petitioner, in pursuant to the liberty granted in the order, which is the subject matter of contempt, has also filed a revision application u/s.10-A[1][b] of the Tamil Nadu Land Encroachment Act, 1905, before the Commissioner of Land Administration, Chepauk, Chennai-5, along with a petition for stay and the revision as well as the stay petition are stated to be pending and the said official has also issued the Notice of Hearing on 02.05.2019. सत्यमेव जयते

9 In the light of the above facts and circumstances, the contempt petition is closed.

10 It is made clear that the concerned authorities shall see to that there is no re-encroachment or fresh encroachment on the lands which are in possession of the Revenue Department of the Collectorate of Chennai and the Tahsildar, Ambattur Taluk, Tiruvallur District. The petitioner is always at liberty to

work out his remedy in accordance with law with regard to the alleged unauthorised demolition of the superstructure and taking possession of the land, before the competent Forum and also subject to the result of the revision application pending before the Commissioner, Land Administration, Chepauk, Chennai-5.

SD/-

Assistant Registrar (Comm. Cases)

AP

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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Sm/22/05/2019

To

1.The District Collector,
Thiruvallur District,
Thiurvalur-602001.

2.The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai-600 053.

Copy to:-

1.The Secretary to Government
Revenue & Disaster Management [LD2[1]]
Department, Fort St George, Secretariat
Chennai 600 009.

2.The Commissioner of Land Administration
Ezhilagam, Chepauk, Chennai 600 005.

3.The Collector
Chennai District.