

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.2295 of 2017
in W.P.No.5917 of 2004

T.A.Sethupathiramalingam

... Petitioner

Vs.

1. T.Varadharasan
 Joint Commissioner,
 Hindu Religious and Charitable Endowments
 (Admn.) Department,
 Salem - 636 001.

2. Sivagami
 Executive Officer,
 A/m. Nalla Kumarasamy Temple,
 Koothampoondi Village,
 Tiruchengode - 637 202,
 Namakkal District.

.... Respondents

Petition filed under Section 11 of the Contempt of Courts Act, praying to punish the Respondent for willfully violating the order dated 20.07.2017 passed by this Court in W.P.No.5917 of 2004.

For Petitioner : Ms.G.Sumitra

For 1st Respondent : Mr.M.Maharaja,
 Special Govt. Pleader
 (H.R. & C.E.)

For 2nd Respondent : M/s.A.S.Kailasam Associates

O R D E R

This Contempt Petition is filed seeking to punish the

Respondent for willfully disobeying the order dated
<https://hcservices.ecourts.gov.in/hcservices/>

20.07.2017 passed by this Court in W.P.No.5917 of 2004.

2. Learned counsel for the Petitioner submitted that in the order dated 20.07.2017 passed by this Court in W.P.No.5917 of 2004, this Court had directed the Respondents to maintain status quo till the disposal of O.A.No.10 of 2003. Since the Original Application number was erroneously mentioned, a clarification was sought for and this Court, by an order dated 01.11.2017 in W.M.P.No.29739 of 2017, had directed to replace O.A.No.3 of 2004 in the place of O.A.No.10 of 2003. He further submitted that even though time was granted for disposal of O.A.No.3 of 2004, the 1st Respondent/Joint Commissioner, Hindu Religious and Charitable Endowment (Admn.) Department, permitted the 2nd Respondent/Executive Officer of Arulmighu Nalla Kumarasamy Temple, Koothampoondi Village, to continue as Fit person.

3. It is represented by the learned Special Government Pleader appearing for the 1st Respondent that the 2nd Respondent has taken charge of the Temple in question on 06.11.2017 pursuant to the orders of this Court and he clarified that O.A.No.3 of 2004 was disposed of on 03.01.2018.

4. This Court is of the view that entire proceedings have to be gone into before holding that a person has committed wilful disobedience of the order of this Court.

R.O.C.No.13469/2002-2 A2, dated 14.02.2003, appointing the 2nd Respondent herein as Fit Person, has reference to O.A.No.3 of 2004 and not O.A.No.10 of 2003. The 1st Respondent has issued the said proceedings on the basis that this Court had directed to maintain status quo on account of pendency of O.A.No.10 of 2003, which was withdrawn earlier. It is further seen that there is no mention in the Affidavit filed in the Writ Petition that the Original Application Number has been wrongly mentioned and nowhere, it has been stated that O.A.No.10 of 2003 was withdrawn by the Petitioner and yet another proceedings were filed.

5. Though there is mistake on the part of the Respondents in bringing it to the attention of this Court about the modification order dated 01.11.2017 passed in W.M.P.No.29739 of 2017, this will not allow the Petitioner to capitalize on the clarification made by this Court and contend that the Respondents have committed contempt. If the Petitioner is aggrieved by the decision of the Respondents in disposing of O.A.No.3 of 2004 subsequent to the orders of this Court, it is open to him to challenge the same in accordance with law.

6. It is needless to mention that the authorities concerned shall consider and pass orders on merits, without being influenced by any of the observations made in this

order.

In view of the above, no further orders are required in this matter. **The Contempt Petition is closed with the above observations.** Consequently, connected Sub Application No.462 of 2017 is closed.

aeb

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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Sd/20/05/2019

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