

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Cont.P.No.870 of 2017

1. S.Saroja

2. S.Meena

3. S.Babu

4. S.Durai Babu

(Amended as per order in Sub.A.No.461 of 2017
in Cont.P.No.870 of 2017 dated 17.01.2018)

... Petitioners

Vs.

N.Manoharan,
The Tahsildar,
Thirukazhukundram,
Kanchipuram District.

... Respondent

PRAYER: Contempt Petition filed under Section 11 of the Contempt of the Courts Act praying to punish the respondent for contempt of Court in willfully and deliberately disobeying the orders passed by this Court in W.P.No.33708 of 2016 dated 26.09.2016.

For Petitioners : Mr.K.Mohamed Hussen

For Respondent : Mr.M.Elumalai
Government Advocate

ORDER

Heard Mr.K.Mohamed Hussen, learned counsel for the petitioners and Mr.M.Elumalai, learned Government Advocate for the respondent.

2. The present Contempt application has been filed alleging willful disobedience of order and direction in W.P.No.33708 of 2016 dated 26.09.2016.

3. The said writ petition was the second round of litigation. Earlier the petitioner had approached this Court and filed W.P.No. 11642 of 2014 to direct the official respondents to consider the petitioner's application dated 21.11.2013 for issuance of patta for the lands in Sy.No.375/8, 375/10A, 375/10B, 375/10C, 375/15, 375/12A, 375/16A, 375/16B, 376/16C, 376/18B and 375/23 at Merkandai Village, Thirukazhukundram Taluk, Kanchipuram District.

4. The said writ petition was disposed of by directing the Tahsildar, Thirukazhukundram Taluk to consider the petitioner's application for grant of patta on merits and

in accordance with law after issuing notice to the petitioners as well as to the respondents 3 to 7, private parties who are impleaded in the writ petition. The petitioner came before this Court stating that the order has not been complied with and Contempt petition No.2191 of 2015 was filed. When the said contempt petition was filed before this Court on 27.10.2015, the Tahsildar, Thirukazhukundram Taluk who was present in the Court reported that he has submitted a report dated 26.10.2015 to the Revenue Divisional Officer. This report was fully in favour of the petitioner. Thus, recording the said report the contempt petition was closed vide order dated 27.10.2015.

5. Since, there is no progress in the matter thereafter the petitioner once again approached this Court and filed W.P.No.33708 of 2016. The said writ petition was disposed of by order dated 26.09.2016 and the operative portion of the order reads as follows:

"3. In the light of the above, there will be a direction to the first respondent to consider the petitioner's representation dated 27.04.2016 and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, making it clear that if the order is not complied with,

action for contempt will be initiated and this time, the action will be severe.

4. The writ petition is disposed of with the above directions. No costs."

6. In the said order, the Court noted about the earlier proceedings which were initiated by the petitioner and the report of the Tahsildar dated 26.10.2015. Though the writ petition was disposed of on 26.09.2016, no action was initiated by the Revenue Divisional Officer, though the Tahsildar had submitted report as earlier as on 26.10.2015. Therefore, the petitioner has filed this contempt petition. The Tahsildar, Thirukazhukundram has filed counter affidavit reiterating the stand taken in the report dated 26.10.2015 which appears to enure in favour of the petitioner.

7. The learned Government Advocate has produced before this Court a copy of the order passed by the Revenue Divisional Officer, Kancheepuram in Na.Ka.No.2199/2018/N4 dated 29.03.2018. In the said order, there is a reference to the report of the Tahsildar in Na.Ka.No.1209/2011/Aa2 dated 05.04.2018. The copy of the said report has not been placed before this Court. The order passed by the Revenue

Divisional Officer dated 29.03.2018 is against the petitioner. However, no opportunity was granted to the petitioner before such an order. That apart the order dated 29.03.2018 was passed without reference to the report of the Tahsildar dated 26.10.2015.

8. Thus, the order passed by the Revenue Divisional Officer is in total violation of the principles of natural justice and liable to be set aside. Since, this order was passed during the pendency of that contempt petition, this Court is well within jurisdiction to interfere with the order. Accordingly, order passed by the Revenue Divisional Officer in Na.Ka.2199/2018/N4 dated 29.03.2018 is set aside and the matter is remanded to the Revenue Divisional Officer, Kancheepuram who was impleaded as third respondent in the writ petition, but however, he is not a party in the contempt petition. Nevertheless, since, the respondent seeks to get exoneration based on the order of the Revenue Divisional Officer, the Court has considered the correctness of the order of the Revenue Divisional Officer dated 29.03.2018.

9. Accordingly, the Revenue Divisional Officer, Kancheepuram is directed to issue notice to the petitioner

as well as the other private parties afford them an opportunity of personal hearing and pass orders on merits and in accordance with law. This direction be complied with within a period of six weeks from the date of receipt of copy of this order.

SD/-
ASSISTANT REGISTRAR (COMM. CASES)
mrm

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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THS/09/04/2019

To

The Revenue Divisional Officer,
Kancheepuram.

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