



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

CONT.A. [MD]No.11 of 2019

against

SUB.A[MD]No.138 of 2019

in

CONT.P[MD]No.30 of 2015

N.Sheela Selvi

: Appellant

Vs.

1.Anbazhagan,

Sub Divisional Magistrate cum Revenue Divisional Officer,
Tiruchirappalli.

2.N.Ravichandran,

The Commissioner,
Tiruchirappalli City Corporation,
Trichy - 1.

: Respondents

PRAYER: Contempt Appeal is filed under Clause 15 of the Letters Patent Act, praying to revive the Contempt Petition [MD]No.30 of 2015 by setting aside the impugned order in Sub.A[MD]No.138 of 2019 dated 01st August 2019.

Prayer in SUB A(MD).No.138 of 2019 :

Sub Application is filed under section 151 of Civil Procedure Code, praying this Hon'ble Court to Revive Contempt (MD) No.30 of 2015 in WP(MD) No.2604 of 2014 dated 16.04.2015.

Prayer in CONT P(MD).No.30 of 2015 :

Contempt Petition is filed under section 11 of Contempt of Court's Act, 1971 praying this Hon'ble Court to summon the respondent and deal with him as per law for having willfully disobeyed the order dated 18th February 2014 in W.P.(MD)No.2604 of 2014.

Prayer in WP(MD).No.2604 of 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other order or direction in the nature of the Writ directing the 2nd and 4th Respondents to implement the order passed by the 1st Respondent in Na.Ka.A1. 3388-2012 dated 17.10.2013.



For Appellant : Mrs.N.Sheela Selvi
Party-in-person
For Respondent No.1 : Mr.A.K.Baskara Pandian
Special Government Pleader
For Respondent No.2 : Mr.N.S.Karthikeyan
Standing Counsel

J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have elaborately heard Mrs.N.Sheela Selvi, petitioner appearing in person, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the first respondent and Mr.N.S.Karthikeyan, learned Standing Counsel for the second respondent.

2.The appellant seeks to revive the CONT.P.[MD]No.30 of 2015 by setting aside the order passed in SUB.A.[MD]No.138 of 2019 dated 01.08.2019.

3.The real issue involved in the matter relates to a dispute that arose as regards two layouts which were approved in Trichy District. One of the layout is stated to have been promoted by the forefathers of the present petitioner. Since there were disputes arising between two sets of people namely, the petitioner on one side and Thiru.Nandhalala, son of Singaravel, and others on the other side. Proceedings were initiated under Section 107 Cr.P.C. by the Revenue Divisional Officer, Trichy. This culminated in order dated 17.10.2013. The petitioner's case rests upon the finding rendered by the Revenue Divisional Officer in Paragraph No.3 of the said order.

4.The petitioner's grievance is that this order was not implemented by the Corporation or by the Revenue Divisional Officer. Therefore, she filed W.P.[MD]No.2604 of 2014, to implement the order dated 17.10.2013. The said writ petition was disposed of by order dated 18.02.2014, recording the submission of the learned Additional Government Pleader that the third respondent in the said writ petition Mr.S.Nandhalala @ Nedunchezian, has challenged the said order by filing a Criminal Revision Case in R.C.No.84 of 2013, under Section 397 Cr.P.C. Further, the Court recorded that based on the complaint given by the petitioner, First Information Report has been registered as against the said Nandhalala and his family members in Crime No.48 of 2014 on 22.01.2014, on the file of Inspector of Police, Cantonment Police Station, Trichy.



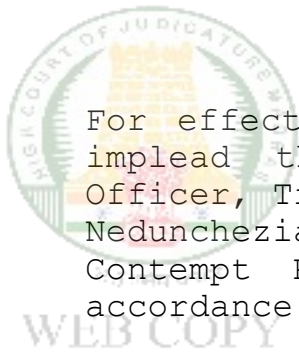
5.The writ petition was disposed of by order dated 18.02.2014, stating that the prayer has already been granted and the criminal case is in the stage of investigation. Therefore, the Court opined that no further direction needs to be issued except to state that the Police will initiate appropriate action in Crime No.48 of 2014. The prayer was to implement the order passed by the Revenue Divisional Officer. The order remained intact on the said date and the challenge to the said order was also pending in R.C.No.84 of 2013.

6.Therefore, in our considered view, the writ petition should have been either kept pending or disposed of awaiting the decision in R.C.No.84 of 2013, on the file of the Principal District and Sessions Judge, Tiruchirappalli. The said Criminal Revision Case was dismissed by the Court of Sessions, Trichy, by order dated 20.12.2013. Therefore, on the date when the writ petition was filed by the petitioner to implement the said order, the order passed by the Revenue Divisional Officer was a valid order. The said Nandhalala filed CrI.O.P.[MD]No.3751 of 2014 under Section 482 Cr.P.C., challenging the order dated 17.10.2013. In the said CrI.O.P., an Advocate Commissioner was appointed, who had submitted a report and when the matter was heard finally, the Court had observed that the proceedings under Section 107 Cr.P.C. has already been closed.

7.*Prima facie* it appears that full facts were not placed before the Court properly, because the petitioner before us who was the first respondent in CrI.O.P.[MD]No.3751 of 2014 did not appear when the case was disposed of on 26.09.2018. From the records placed before us, we find that the order passed by the Revenue Divisional Officer dated 17.10.2013 remains intact, more so, because CrI.O.P. [MD]No.3751 of 2014, filed by one Nandhalala was closed by order dated 26.09.2018. Thus, the validity of the order dated 17.10.2013 of the Revenue Divisional Officer was not tested. Alleging disobedience of the order, Contempt Petition was filed which was closed. Petition to revive the Contempt Petition was also closed.

8.In the light of the above, we are of the considered view that CONT.P.[MD]No.30 of 2015, needs to be adjudicated afresh and a decision to be taken on merits, more particularly, when the order dated 17.10.2013 passed by the Revenue Divisional Officer remains intact as on date and it has to be ascertained as to what steps had been taken by the Revenue authorities and the Corporation to implement the same. Thus, the present case is taken as one of the rarest of rare cases for this Court to exercise jurisdiction.

9.Accordingly, the Contempt Appeal is allowed and the order passed in the Contempt Petition is set aside and the CONT.P.[MD] No.30 of 2015 is restored on the file of the learned Single Judge.



For effective adjudication of the Contempt Petition, we *Suo Motu* implead the Sub Divisional Magistrate cum Revenue Divisional Officer, Trichy, as the second respondent and also Mr.S.Nandhalala @ Nedunchezian, son of Singaravel, as the third respondent. The Contempt Petition be heard and disposed of on merits and in accordance with law.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

MR

To

1.Anbazhagan,
Sub Divisional Magistrate cum Revenue Divisional Officer,
Tiruchirappalli.

2.N.Ravichandran,
The Commissioner,
Tiruchirappalli City Corporation,
Trichy - 1.

COPY TO

The Section Officer,
Contempt Section,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.SHEELA SELVI, Advocate Sr. No. 93387

COMMON ORDER MADE IN
CONT.A[MD]No.11 of 2019
21.10.2019

NS (CO)

TR(08.11.2019) 4P 5C