

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2020

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

Cont.P.No.1388 of 2015

&

A.Nos.84 & 3545 of 2015

Lotus Pond Welfare Association,
Represented by its President, Mr.K.Gurumoorthy,
No.46, IT Highway, OMR, Thaiyur – B, Village,
Kelambakkam, Kanchipuram Dist., - 603 103 ... petitioner

Vs.

Mr.Chandan Jain,
Managing Director,
M/s.Vijay Shanthi Builders Ltd.,
No.20/43, Kasthuri Rangan Salai
(Near Russian Culture Centre),
Alwarpet, Chennai 18. ... respondent

Prayer: Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent in the manner this Hon'ble Court deems fit and proper for deliberately committing contempt by willful disobedience of the order dated 16.06.2015 of the Hon'ble Court in A.No.84 of 2015.

Application Nos. 84 of 2015 and 3545 of 2015:

Lotus Pond Residents Welfare Association
rep by its Vice President,
Mr.S.Pitchumani,
No.46 IT Highway, OMR, Thaiyur Village,
Kelambakkam, Kanchipuram District 603 103.

...Applicant in both Applications

vs

M/s.Vijay Shanthi Builders Ltd.,
rep by its Managing Director,
No.20/43, Kasthuri Rangan Salai,
(near Russian Culture Centre)
Alwarpet, Chennai 600 018.

...Respondent in both Applications

Application No.84 of 2015 filed under order XIV Rule 8 of O.S.
Rules r/w Section 9(ii) © of the Arbitration and Conciliation Act 1996 to
pass an Interim direction directing the Respondent to continue with the
maintenance work in the residential apartment complex named as LOTUS
POND situated at No.46 IT Highway OMR Thaiyur Kelambakkam
Kancheepuram District 603 103 pending initiation and completion of
arbitration proceedings terms of clause 28 of the tripartite agreements.

Application No.3545 of 2015 filed under order XIV Rule 8 of
O.S.Rules r/w Section 9 (ii) © of the Arbitration and Conciliation Act 1996
to pass an interim direction directing the respondents to continue with the

maintenance work in the residential apartment complex named as Lotus Pond situated at No.46 IT Highway OMR, Thaiyur, Kelambakkam, Kancheepuram District 603 103 and also continue ensuring water supply to the residents.

For Petitioner : Mr.Hari Radhakrishnan
for Mr.A.Mohamed Ismail

For Respondent : Ms.Rekha
for Mr.R.Parthasarathy

ORDER

The above contempt petition has been filed seeking to punish the contemnor for having wilfully disobeyed the orders of this Court dated 16.06.2015 in A.No.84 of 2015. The allegation of contempt are as follows.

2. On 16.06.2015 this Court has passed the following order:

“At request, post on 24.06.2015.”

Water supply shall continue until further orders.

Without prejudice to the contentions raised, disposal of the garbage shall be continued subject to payment of maintenance charges.”

3. The petitioner would contend that despite this order of the Court

and the same being intimated to the respondent herein, the respondent has

failed to provide the water supply to Tower 8 from 16.06.2015 to 18.06.2015 and water was only supplied on 19.06.2015.

4. That apart, though the respondent was directed to continue to do maintenance work of garbage clearance on maintenance charges, the respondent had vide their e-mail dated 17.06.2015 informed the petitioner that they would be handing over the entire project to them, which according to the petitioner amounts to contempt of orders of this Court.

5. A perusal of the typed set of papers would indicate that the respondent had by their letter dated 17.06.2015 handed over the entire common amenities to the association and had also submitted that on and from the said date they would not be liable for common amenities. As regards the clearance of garbage, they had stated that they were willing to continue clearing the garbage, provided the charges are paid as per the orders of this Court dated 16.06.2015.

6. They had also undertaken to continue the water supply. The said documents had also been received by the petitioner association. After issuing contempt notice vide their e-mail and letter dated 17.06.2015, the

petitioner association has sent a letter dated 22.06.2015 returning the documents to the respondent. Nowhere in this letter has any statement been made out about the non supply of water or the non clearance of the garbage.

7. Considering the fact that the petitioner have not been able to substantiate the contempt pleaded by them the petition is dismissed. Consequently, connected applications are also closed. No costs.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

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//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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SMI/22/01/2021