

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.01.2020

DELIVERED ON: 03.02.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Contempt Petition No.860 of 2019

Sagayi Leather Trading Company
No.10/A, Kannabiran Koil Street
Pallavaram
Chennai 600 043
represented by one of its Partners
Riaz Ahmed

Petitioner

Nandakumar
Director
J.G. Shelters (Madras) LLP
No.105, Old Trunk Road
Pallavaram
Chennai

vs.

Respondent

Contempt Petition filed under Sections 11 and 12 of the Contempt of Courts Act, 1971, seeking to punish the respondent for violating the order dated 31.07.2018 passed by this court in CrI.M.P. No.10032 of 2018 in CrI.O.P. No.734 of 2018.

For petitioner

Mr. K. Sampath Kumar
for Mr. S.M. Muralidharan

For respondent

Dr. A. Thyagarajan, Sr. Counsel
for Mr. G. Murugendran

ORDER

Alleging non-compliance of the order dated 31.07.2018 passed by this Court in Crl.M.P. No.10032 of 2018 in Crl.O.P. No.734 of 2018, this contempt petition has been filed.

2 For the sake of clarity, the parties are referred to by their name.

3 In the opinion of this Court, for a better understanding of the issue at hand, it would be profitable to extract the order dated 31.07.2018 alleging non-compliance of which, this contempt petition has been preferred:

"This petition has been filed by a third party, viz., Sagayi Leather Treading Company, to recall the order dated 12.07.2018 passed in Crl.O.P. No.734 of 2018 preferred by J.G. Shelters (Madras) LLP.

2 *For the sake of clarity and understanding of the issue, the order dated 12.07.2018 passed by this Court in Crl.O.P. No.734 of 2018 is usefully extracted hereunder:*

"This Criminal Original Petition has been preferred seeking to direct the official respondents to provide sufficient police protection to the petitioner to put up a compound wall around the vacant land measuring an extent of acre 9.16 comprised in Survey No.38,40,39/2,3,4, 396/1,2,3 and 397 situated at Pallavaram, Chennai.

2 *It is the case of the petitioner that the lands described in paragraph no.4 infra, belong to them and that they have entered into a joint development agreement with Casa Grande Pvt. Ltd. for development of the said lands. When the development work commenced, some local persons, claiming themselves to be members of a political*

outfit, were illegally preventing construction activity from taking place. Hence, the present petition seeking the aforesaid relief.

3 Today, Ms. A. Selvi, WPC 43294, S5, Pallavaram Police Station, is present before this Court.

4 The learned Government Advocate (Crl. Side) submitted a report dated 19.04.2018 given by the Special Tahsildar, Town Settlement, Pallavaram, which reads as under:

“An application has been filed by M/s. CASA Grand (Pvt.) Ltd. Chennai for measuring the lands in respect of the lands in Old S. No.38/1, 40 Part, 40/1,2 of Issa Pallavaram and S. Nos.396/1, 2 & 3, 397/3 of Zamin Pallavaram Village.

The Sub Inspector of Survey of this office has reported that the lands under reference were measured to the satisfaction of the applicant. He has reported that the following lands have been registered in TSLR in the name of M/s. J.G. Shelters (Madras) Ltd. as mentioned against each.

T.S. No.	Ward	Block	Extent (Sq. mts.)
1/1	E	1	3265
1/2	E	1	17635
129/1	A	13	4953
129/2	A	13	0147
1	A	15	0502
4	E	2	2057
Total			28559

The applicant is informed that the Sub Inspector of Survey of this office has reported after measurement to the satisfaction of the applicant that

the above lands are presently under the enjoyment of M/s. CASA GRAND Builders Private Limited.”

5 *In view of the above report, it is the duty of the police to give protection to the lawful activities of the petitioner and ensure that there is no threat and intimidation from such outfits.*

6 *Accordingly, this Court directs the respondent police to give protection to the petitioner to put up a compound wall around the property mentioned above.*

This Criminal Original Petition stands disposed of with the above direction.”

3 *This matter was heard on 30.07.2018 and an order was dictated. However, before signing the said order, this Court entertained certain doubts and therefore, this Court directed the Registry to post the matter today. Instead of listing the matter under the caption “for being spoken to”, it has been inadvertently listed today under the caption “for being mentioned”.*

4 *Heard Mr. K. Sampathkumar, learned counsel for Sagayi Leather, Mr.G.Murugendran, learned counsel for J.G. Shelters and Mr.C.Raghavan, learned Government Advocate (Crl. Side) for respondents 2 and 3.*

5 *This Court has no reason to recall the earlier order dated 12.07.2018 which has been extracted above, inasmuch as, in paragraph no.6 of the order dated 12.07.2018, this Court has directed the respondent police to give protection to J.G. Shelters to put up a compound wall only in respect of the land mentioned in the report dated 19.04.2018 given by the Special Tahsildar, which has been extracted in the said order. In the guise of building a compound wall, J.G. Shelters cannot demolish the tannery and building of Sagayi Leather nor can they cut off ingress and egress for the latter. If the police have any doubt, they may requisition the services of the Revenue authorities for identifying the properties mentioned in the report dated 19.04.2018. This Court has not given any finding with regard to the ownership of the property, as it is beyond the scope of the power under Section 482 Cr.P.C. However, Mr.G.Murugendran, learned counsel for H.G. Shelters fairly*

submitted that the building and tannery of Sagayi Leathers will not be demolished and that it would be dealt with by due process of law.

6 *This Crl.M.P. stands dismissed accordingly.*

The Registry is directed to issue fresh order copy to the parties including Sagayi Leather Trading Company.”

4 From the above, it is apparent that initially, J.G. Shelters (Madras) LLP (for brevity “J.G. Shelters”) filed Crl.O.P. No.734 of 2018 seeking police protection to construct a compound wall around their property that was measured vide report dated 19.04.2018 given by the Special Tahsildar, Town Settlement, Pallavaram and in the said petition, this Court ordered for grant of police protection vide order dated 12.07.2018. When J.G. Shelters went about constructing the compound wall armed with the order dated 12.07.2018 passed by this Court granting police protection, Sagayi Leather Trading Company (for brevity “Sagayi Leather”), the petitioner herein, who was a third party to the lis, preferred Crl.M.P.No.10032 of 2018 in Crl.O.P. No.734 of 2018 for recalling the order dated 12.07.2018 passed in Crl.O.P. No.734 of 2018 in which police protection was ordered by this Court.

5 While hearing Crl.O.P. No.10032 of 2018, the counsel for J.G.Shelters submitted an undertaking to the effect that J.G. Shelters will not demolish the tannery of Sagayi Leather and this Court also, *inter alia*, directed that

J.G. Shelters cannot cut off the ingress and egress for Sagayi Leather. This is the sum and substance of the order dated 31.07.2018 passed by this Court in Crl.M.P. No.10032 of 2018.

6 Now, Sagayi Leather has filed the present contempt petition alleging that J.G. Shelters have demolished a part of the tannery building of Sagayi Leather and that they have also cut off the free access to the premises of Sagayi Leather from Kannabiran Street.

7 On notice, Nandakumar, Director, J.G. Shelters, appeared before this Court on 17.07.2019 in a wheel chair due to his indisposition. Considering his plight, this Court recorded his presence and dispensed with his further presence.

8 Nandakumar filed his counter affidavit dated 14.08.2019 through his counsel, refuting the allegations levelled by Sagayi Leather.

9 Both sides filed photographs and documents pertaining to the property in support of their stand.

10 According to J.G. Shelters, the entire property measures about 9.16 acres, whereas, according to Sagayi Leather, they are in possession of 5.96 acres. It is the case of Sagayi Leather that the entire property was originally owned by J.G. Glass Industries (Pvt.) Ltd., a sister concern of T.T.Krishnamachari Group and Sagayi Leather was a tenant under them.

11 Concededly, J.G. Glass Industries (Pvt.) Ltd. filed eviction proceedings against Sagayi Leather in R.C.O.P. No.179 of 1982 before the District

Munsif Court, Poonamallee, under the Tamil Nadu Buildings (Lease and Rent Control) Act, in which, a consent decree was passed on 30.01.1990, under which, Sagayi Leather agreed to hand over possession of the property in their occupation to the landlord within six months. Thereafter, admittedly, Sagayi Leather did not hand over possession and continued to squat in the property and not stopping with that, the partners of Sagayi Leather filed O.S. No.76 of 2007 before the Principal Sub Court, Chengalpattu, seeking declaration of title and injunction founded on adverse possession against (1) J.G. Glass Industries (Pvt.) Ltd., (2) Nandakumar and (3) Sujatha Nandakumar. In that suit, the defendants filed I.A. No.696 of 2006 under Order VII Rule 11 C.P.C., questioning the maintainability of the suit and to consequently, reject the plaint, which was allowed on 12.10.2007. The appeal in A.S.No.11 of 2008 preferred thereagainst by Sagayi Leather before the Principal District Court, Chengalpattu, was dismissed *vide* judgment dated 25.10.2010. Sagayi Leather appealed against the said judgment in S.A.No.655 of 2011, wherein, this Court, *vide* judgment dated 04.04.2014, confirmed the concurred findings of the two Courts below.

12 During the course of arguments in this contempt petition, the learned Senior Counsel appearing for J.G. Shelters submitted that J.G.Shelters had put up the compound wall only to protect their property and to ensure that miscreants do not occupy their property illegally and that they have given sufficient space for ingress and egress to the premises of Sagayi Leather.

13 The aforesaid submission of the learned Senior Counsel for J.G.Shelters was strongly objected to by the learned counsel for Sagayi Leather, who submitted that the access to the premises of Sagayi Leather from Kannabiran Street has been completely blocked.

14 According to Sagayi Leather, J.G. Shelters is a land grabber, they having grabbed the land from the TTK Group. Whereas, it is the case of J.G. Shelters that the company was originally J.G. Glass Industries (Pvt.) Ltd. and that Nandakumar had purchased shares from the TTK Group and the present name of the company is J.G. Shelters.

15 This Court cannot go into these disputed questions of fact which is outside the scope of this contempt petition. Suffice it to say that even in O.S. No.76 of 2007 that was filed by the partners of Sagayi Leather, Nandakumar and his wife Sujatha Nandakumar have been shown as defendants 2 and 3 respectively.

16 The learned counsel on either side requested this Court to appoint an Advocate Commissioner to inspect the property to find out whether the respondent is guilty of contempt. Since the property is located in Chennai itself, this Court felt that instead of appointing an Advocate Commissioner to see whether there is any violation of the orders passed by this Court, this Court itself could inspect the property and come to a conclusion. Ergo, on 20.01.2020, this Court inspected the property in the presence of both parties and their respective advocates viz. Mr. K.

Sampath Kumar, Mr. S.M. Muralidharan, Dr. A. Thyagarajan, Mr. G. Murugendran and others.

17 The entrance to the property is from Thirumal Nagar II Street. At the entrance, a gate has been put up by Nandakumar with a small room for Watchman on the left side of the gate. Immediately on entering through the gate, if one turns right, there is yet another gate and a compound wall that segregates Sagayi Leather from the rest of the property. The distance between that compound wall and Sagayi Leather factory premises is around 24 feet as per the sketch submitted by the learned counsel for Sagayi Leather, whereas, the distance from Kannabiran Street to the Sagayi Leather factory premises is around 530 feet even according to the sketch submitted by Sagayi Leather. Kannabiran Street commences from G.S.T. Road and runs east-west. After a little while, it extends as a perpendicular ally into the property in question. This Court inspected that ally and found that lorries cannot easily navigate through it in view of its narrowness and also on account of houses on the right side with a drainage line passing thereby. On the contrary, there is free access into Sagayi Leather factory premises from Thirumal Nagar II Street, through which, lorries can easily pass.

18 On behalf of J.G. Shelters, Nandakumar filed an affidavit dated 20.01.2020, wherein, he has given the following undertaking:

“I submit that in the above circumstances, this respondent undertakes to:

A. To keep the gates open for the free movement of the petitioner and his vehicles to reach the portion through Thirumal Nagar II Street. A security person is employed during the day time to safeguard this respondent's property, in the gate.

B. I submit that the area under occupation of tenant at Pallavaram is prone to hide out for antisocial elements and antisocial activities. This respondent put up the compound wall only to protect the property from antisocial elements. In these circumstances, this respondent is neither responsible nor liable for any acts or untoward events that takes place in the area.

C. I submit that I am filing this affidavit of understanding without prejudice to my right available under law to protect my property in accordance with procedure established by law. I further submit that this affidavit of understanding will not be put against me in the other pending litigations by the petitioner herein.”

19 Thus, Nandakumar and J.G. Shelters have given an unconditional undertaking that they will keep both gates open facilitating free movement of men and vehicles to the premises of Sagayi Leather via Thirumal Nagar II Street.

20 As regards the allegation that J.G. Shelters had demolished the tannery building of Sagayi Leather, this Court inspected the place and found that it was a dilapidated structure and did not find any evidence of demolition. It is made clear that this Court has not given any finding with regard to the rights of both parties or on the merits of their respective assertions. It is also made clear that this order shall not prejudice the civil claims of both parties and shall not stand in the

way of the litigations that are pending between the parties or any future litigations. This Court has only returned a finding that there is no material to punish the respondent for contumacious act, as of now.

With the above observations, this contempt petition stands closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

cad

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

SMI/28/02/2020

To

The Director,
J.G. Shelters (Madras) LLP,
No.105, Old Trunk Road,
Pallavaram,
Chennai.

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