

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Cont.P.Nos.892 & 893 of 2020

and

Sub.A.Nos.365 & 366 of 2020

Sri Kusuma Harantah Thunai
Ex-Servicemen Association
reg.No.304/67
No.13/193, jambulingam Street,
General Kumaramangalam Colony
Chennai 600 082
rep.by its President
N.Sundararajan

...Petitioner in both petitions and
Sub Applications

Versus

1.Mr.G.Prakash I.A.S
Commissioner,
Corporation of Chennai
Chennai 600 003.

2.Mr.Umapathy
The Executive Engineer
Zone VI, Greater Chennai Corporation,
Zonal Office, No.5, Anderson Road,
Ayanavaram, Chennai 600 023.

3.Mr.D.Karthikeyan,
Managing Director,
Tamil Nadu Slum Clearance Board,
No.5 Kamaraj Salai,
Chennai 5.

...Respondents in both petitions
and Sub Application

Common Prayer:- Contempt petitions filed under Section 11 of the Contempt of Courts Act pleased to punish the respondents for gross and deliberate disobedience to comply with the orders of this Court dated 17.03.2020 in W.M.P.No.4598 & 4599 of 2020 against W.P.No.8537 & 8538 of 2017.

Sub Application Nos.365 & 366 of 2020:

Sub Applications filed under Section 151 CPC to direct the respondents not to dig up land, not to create any pathway or not to put up any compound wall around the subject property or not to use any other purpose pending disposal of the above Contempt Petition.

For Petitioner in both petitions : Mr.Madhumitha

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The petitioner Association alleging willful disobedience and non compliance of the order dated 17.03.2020 made in WMP.No.4598 & 4599 of 2020 in W.P.No.8537 & 8538 of 2017, came forward to file this

Contempt Petitions.

<https://hcservices.ecourts.gov.in/hcservices/>

2. These Writ Petitions have been filed by Tmt.Vasuki and Tmt.M.Rajeswari, praying for quashment of the impugned Notice issued by the Executive Engineer, Zone-6, Greater Chennai Corporation, Chennai 23, in and by which, the petitioners therein were directed not to go on with the constructions. When the Miscellaneous Petitions filed therein have been taken up along with W.P.Nos.8537 & 8538 of 2017 in C.S.No.295 of 2016 and W.P.No.23323 of 2008 & 14962 of 2010, following orders came to be passed on 17.03.2020:

"The counsel for the miscellaneous petitioner in W.M.P.Nos.4598 & 4599 of 2020 who seeks to implead in the main petitions viz., W.P.No.8537 & 8538 of 2017 would submit that some third parties including the Corporation of Chennai are interfering with the possession of the property which has been mentioned as Item No.2 of the Suit schedule property in C.S.No.295 of 2016. It is also brought to the notice of this Court that already an injunction has been operating in favour of the miscellaneous petitioner.

2. Hence the property mentioned as Item No.2 of the suit schedule property in C.S.No.295 of 2016 should not be meddled by any of the parties. Call the matter in the first week of April."

3. The learned counsel appearing for the petitioners would submit that despite in paragraph no.2 of the above said order, a direction has been given by directing the authorities concerned not to proceed with item no.2 of the Suit Schedule Property in C.S.No.295 of 2016, attempts are being made by the respondents 1 and 2 / Corporation officials and therefore prays for appropriate orders.

4. Mr.Raja Srinivas, learned Standing Counsel accepts notice on behalf of the respondents 1 and 2 and seeks time to get instructions.

5. This Court has considered the arguments advanced by the learned counsel appearing for the petitioners and perused the materials.

6. A Single Bench of this Court, vide order dated 27.05.2016 in O.A.No.437/2016 in C.S.No.295/2016, had restrained the respondents 6, 7 and 9 and 17 to 54 or their men or agents by an order of ad-interim injunction, interfering with peaceful possession and enjoyment of the schedule mentioned property. Admittedly, it is not even the prayer of the applicant / plaintiff against the Corporation of Chennai / 10th respondent and a perusal of the order, which is the subject matter of contempt, would disclose that the Division Bench was under the impression that the said order of ad-interim injunction would operate against the Corporation of

Chennai, whereas, it is not so. If the petitioners apprehend any dispossession or other actions which may affect their rights, the remedy open to them is to file an appropriate application in the pending Civil Suits.

7. In the light of the above facts and circumstances, this Court is of the considered view that no contempt has been made out against the respondents 1 and 2. Therefore, these Contempt Petitions are closed. However, if the petitioner is so advised and if it is available to them under law, they are at liberty to workout their remedy in accordance with law in the pending Civil Suit. No costs.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

dpq

//Certified to be true copy//

Dated at Madras this the day of 2020.

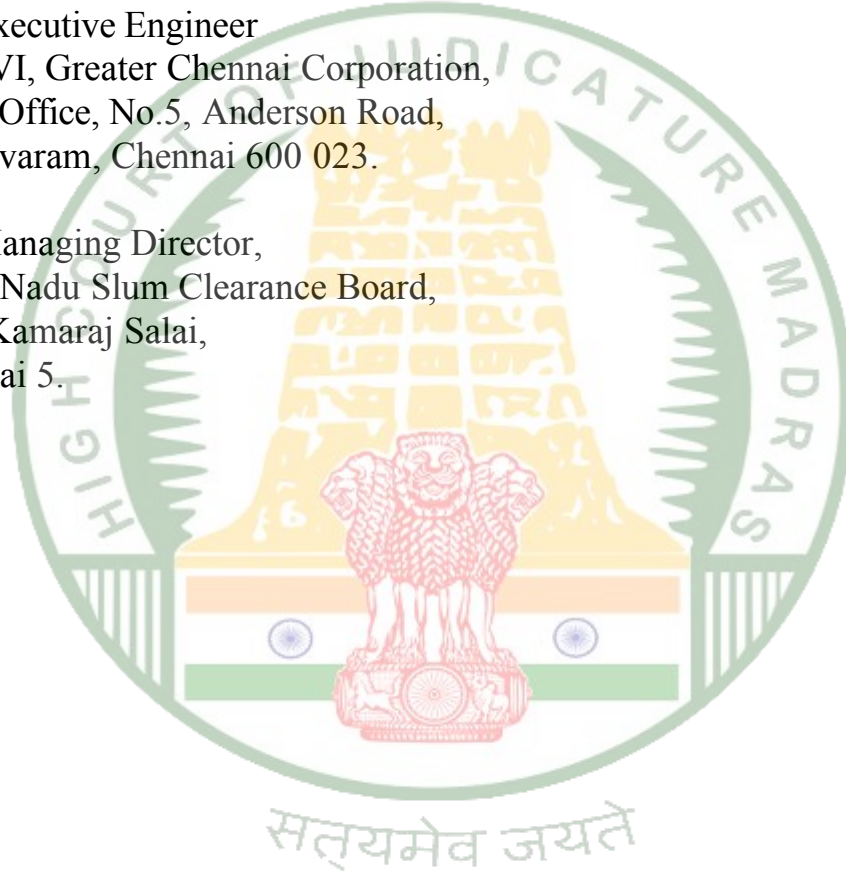
COURT OFFICER(O.S.)

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SMI/23/11/2020

To

- 1.The Commissioner,
Corporation of Chennai
Chennai 600 003.
2. The Executive Engineer
Zone VI, Greater Chennai Corporation,
Zonal Office, No.5, Anderson Road,
Ayanavaram, Chennai 600 023.
3. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5 Kamaraj Salai,
Chennai 5.



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