



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2020

CORAM

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM**

Cont.P(MD).No.512 of 2020

and

Sub Application(MD).No.110 of 2020

in

W.P.(MD).No.12605 of 2013

Cont.P(MD).No.512 of 2020:-

N.Pandian (died)

P.Mokkai

(Cause title accepted as per Court order dated
17.03.2020 made in Sub A(MD).NO.76/2020 in

Cont P(MD).No.SR.5176/2020)

... Petitioner/Petitioner

Vs.

1.Mr.T.G.Vinay, I.A.S.,
The District Collector,
Madurai District, Madurai.

2. Mrs.Kannagi,
The Revenue Divisional Officer,
Collectorate, Madurai.

3. Mr.Suresh,
The Tahsildar, Madurai North Taluk, Collectorate,
Madurai - 625 020.

4. Mr.Veeranan,
Village Assistant, Puthupatti village, Arumabnur Post,
Madurai District. ... Contemnors/Respondents Nos.1 to 4

PRAYER in Cont.P(MD).No.512 of 2020:: Contempt Petition is filed under Section 11 of the Contempt of Courts' Act, 1971, to punish the contemnors/respondents for the deliberate and wilful disobedience of the order dated 04.08.2017 passed by this Court in W.P.(MD).No.12605 of 2013.

Prayer in WP(MD). 12605/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of mandamus directing the respondents to consider the petitioner's representation dated



13.05.2013 and pass appropriate orders in accordance with law within a time that may be stipulated by this Honble Court.

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.M.Muthugeethaiyan,
Spl.Government Pleader

Sub Application(MD).No.110 of 2020

Mr.K.A.Aditha

... Petitioner/Proposed
5th respondent/Proposed
5th respondent

Vs.

1.N.Pandian (died) ... 1st respondent/Petitioner/Petitioner

2.Mr.T.G.Vinay, I.A.S.,
The District Collector,
Madurai District, Madurai.

3. Mrs.Kannagi,
The Revenue Divisional Officer,
Collectorate, Madurai.

4. Mr.Suresh,
The Tahsildar,
Madurai North Taluk, Collectorate,
Madurai - 625 020.

5. Mr.Veeranan,
Village Assistant, Puthupatti village,
Arumabnur Post, Madurai District. ... Respondents 2 to 5/
Contemnors/ respondents 1-4

Prayer in SUB. Appln.(MD). No.110 of 2020: Sub Petition filed under Section 151 of Civil Procedure Code, to implead the proposed respondent and rank him as 5th respondent in the above said Cont.P.(MD).No.512 of 2020.

For Petitioner : Mr.S.Suresh Kumar

For Respondents
2 to 5 : Mr.M.Muthugeethaiyan,
Special Government Pleader



O R D E R

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

The writ petitioner is the applicant in the contempt application. He filed W.P(MD).No.12605 of 2013, praying for issuance of Writ of Mandamus, directing the official respondents to consider and dispose of the Sub Application dated 13.05.2013. In effect, the petitioner requires concerted effort on the part of the official respondents to remove the obstruction caused by the encroachers in Survey No.78, which is classified as "Cart Track Poramboke" and further according to him, it is his only access to reach his lands.

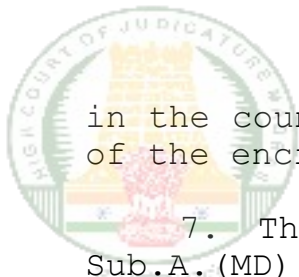
2. The writ petition was entertained during the year 2013 and taken up for final disposal on 04.08.2017. Admittedly, no counter affidavit had been filed by the official respondents.

3. A Division Bench of this Court having taken note of the averments made in the affidavit filed in support of the Writ Petition and upon hearing the submissions of the learned Special Government Pleader appearing for the official respondents has directed the third respondent, namely, the Tahsildar, Madurai North Taluk, Madurai-20, to take appropriate action in accordance with law for the removal of encroachment after putting notice upon the encroachers and also fixed the outer time limit of three months to complete the said exercise from the date of receipt of a copy of that order.

4. The writ petitioner, alleging wilful disobedience and deliberate non-compliance of the order, came forward to file this contempt petition.

5. In compliance of the order dated 06.08.2020, the official respondents, namely, Mr.T.G.Vinay I.A.S., the District Collector, Madurai District, Mrs.Kannagi, the Revenue Divisional Officer, Collectorate, Madurai, Mr.Suresh, the Tahsildar, Madurai North Taluk, Madurai and Mr.Veeranan, Village Assistant, Puthupatti village, Madurai District, are present through video conference.

6. The learned Special Government Pleader appearing for the contemnors has invited the attention of this Court to the counter affidavit of the first respondent/first contemnor and would submit that insofar as the petitioner is concerned, he is having patta lands in Survey Nos.77/15, 77/6 and 77/16 and insofar as the access to the land in Survey No.77/15 is concerned, already 11 ft cement road is available and the access to the patta land in Survey No.77/6 and 77/16 is encroached by one Moorthy S/o.Ayyavoo and steps are taken under the provisions of Land Encroachment Act to cause the removal of encroachment. The learned Special Government Pleader has also drawn the attention of this Court to the other averments made



in the counter affidavit as to the long period of possession by some of the encroachers.

7. The learned Counsel appearing for the sub applicant in Sub.A.(MD).No.110/2020, would submit that the petition is guilty of deliberate suppression of the material facts and if the said facts had been brought to the knowledge of this Court, the writ petition would have been dismissed with exemplary cost and prays for his impleadment.

8. This Court has carefully considered the rival submissions and also perused the materials placed before it.

9. Insofar as the Sub Application is concerned, this Court is not exercising its appellate/review jurisdiction for the reason that under the contempt jurisdiction, it has to see, whether there is any wilful disobedience and deliberate non-compliance of the order. In the light of the same, the Sub Application is not maintainable; however, the sub applicant namely, Mr.K.A.Aditha is granted liberty to workout his remedy in accordance with law before the competent forum.

10. Now coming to the contempt petition, in the light of the stand taken by the first respondent/contemnor in paragraph No.9 of the counter affidavit, necessary, immediate and appropriate steps have to be taken in accordance with law by also adhering to the principles of natural justice to cause the removal of encroachment by one Mr.Moorthy, S/o.Ayyavoo and the said exercise has to be carried out as expeditiously as possible, not later than eight weeks from the date of receipt of a copy of this order and the decision taken in this regard shall also be communicated to the petitioner as well as to the alleged encroacher namely, Mr.Moorthy, S/o.Ayyavoo. Accordingly, the contempt petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pkn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned

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To

1. The District Collector,
Madurai District, Madurai.
2. The Revenue Divisional Officer,
Collectorate, Madurai.
3. The Tahsildar,
Madurai North Taluk, Collectorate,
Madurai - 625 020.
4. Village Assistant,
Puthupatti village,
Arumabnur Post,
Madurai District.

+1 CC to SGP (SR-17585[F] dated 21/09/2020)

+1 CC to M/s.S. SURESH KUMAR, Advocate (SR-17762[F] dated
22/09/2020)

Cont.P(MD).No.512 of 2020
and
Sub Application(MD).No.110 of 2020
in
W.P. (MD).No.12605 of 2013

18.09.2020

NR (01.10.2020) 5P 7C