



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Contempt Petition(MD)No.417 of 2020

in

Review Application (MD)No.14 of 2018

A.Amal Antony

..Petitioner/Petitioner/3rd respondent

Vs.

1. S.Sivasubramanian,
Commissioner,
Tiruchirappalli City Municipal Corporation,
Tiruchirappalli - 620 001.

2. Selvaraj,
Member Secretary / Assistant Director,
Tiruchirappalli Local Planning Authority,
Kajamalai Main Road, Trichy - 620023.

3. Rajesh Lakhoni, IAS,
Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.

4. M.Dhayanidhi,
Assistant Commissioner,
Ponmalai Zone,
Tiruchirappalli City Corporation,
TVS Tollgate, Trichy.

.. Respondents

PRAYER: Contempt Petition filed under section 11 of the Contempt of Courts Act, to punish the respondents herein for willful disobedience of the orders dated 01.08.2018 passed in Review Application (MD)No.14 of 2018 in W.P(MD)No.2822 of 2018.

Prayer in REV.APLW(MD)No.14 of 2018:

Review Application filed under Article 226 of the Constitution of India read with section 114 (Order XLVII Rule 1) of Civil Procedure Code, praying this Court to review the judgment dated 13.02.2018 made in WP(MD)No.2822 of 2018.

Prayer in WP(MD). 2822 of 2018 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling



for the records culminated in the proceedings in the impugned order in Rc.No.206/2018 (TLPA-2) dated 06.02.2018 on the file of the 1st respondent and quash the same as illegal, unenforceable, ultravires without authority and without jurisdiction.

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For Petitioner : Mr.A.Amal Antony(Party-in-Person)

For R-1 & R-4 : Mr.N.S.Karthikeyan

For R-2 & R-3 : Mr.Aravind Pandian,
Additional Advocate General,
Assisted by,
Mr.M.Muthugeethaiyan,
Special Government Pleader

O R D E R

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The present contempt petition is filed by the third respondent in W.P(MD)No.2822 of 2018, alleging wilful disobedience and non-compliance of the order dated 01.08.2018 passed in Review Application (MD)No.14 of 2018.

2. W.P(MD)No.2822 of 2018 was filed by one T.V.Anand, praying for issuance of a Writ of Certiorari calling for the records relating to the proceedings culminated in the impugned order dated 06.02.2018 passed by the Member Secretary / Assistant Director, Tiruchirappalli Local Planning Authority, Tricuchirappalli and quash the same as illegal, unenforceable and without jurisdiction.

3. A Division Bench of this Court had disposed of the writ petition on 13.02.2018 and it is relevant to extract Paragraph No.8 of the said order.

"8.In the light of the above, this writ petition is allowed and the impugned order is set aside and the second respondent is directed to proceed in accordance with law by taking note of the specific directions issued in W.P (MD)No.332 of 2018 dated 09.01.2018. Since the petitioner has filed a revised plan on 06.02.2018, the second respondent is directed to consider the same within a period of eight weeks from the date of receipt of a copy of this order. Before any action is initiated against the petitioner, it goes without saying that the second respondent being the Plan Approval Authority, is required to not only cause inspection of the petitioner's building, but also inspect other apartment complexes and buildings having multiple floors in the area to ascertain as to whether there is any violation. If the respondents 1 and 2 fail to do so, it would amount to discrimination."



4. The third respondent in the said writ petition, has filed Review Application(MD)No.14 of 2018 and a Division Bench of this Court has taken into consideration the facts and circumstances and disposed of the review application with certain directions and it is relevant to extract Paragraph No.30 of the said order.

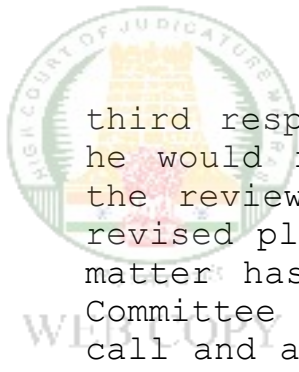
"30.For all the above reasons, the review application is disposed of by directing respondents 2 and 3 to scrupulously follow up the action already initiated by them against the unauthorized and illegal constructions, but while doing so, they shall follow the provisions of the Act and Rules and also the principles of natural justice and proceed in accordance with law. So far as the construction put up by the first respondent is concerned, since the revised plan has been rejected by the second respondent and the matter has been forwarded for being considered by the Empowered Committee, the construction put up by the first respondent shall remain locked and sealed and await the orders of the Empowered Committee. No Costs."

5. The Review Applicant, who is the third respondent in the writ petition alleging willful disobedience and non-compliance of the order dated 01.08.2018 passed in the Review Application, came forward to file this contempt petition.

6. Since the learned counsel appearing for the petitioner is unwell, this Court permitted the petitioner himself, who claims to be a practising Advocate, to argue the matter as party-in-person and according to him, despite the rampant violation, illegal and unauthorized construction put up by T.V.Anand, the respondents / contemnors did not take any sufficient or appropriate action. He would further add that though some of the contemnors are not parties to the matter, the said fact has been brought to their knowledge and despite that, they did not choose to comply with the order and hence, all of them held to be committed contempt of Court and prays for appropriate orders to punish them.

7. When the matter was listed for hearing on 06.08.2020, this Court by taking note of the fact that the order which is the subject matter of contempt came to be passed as early as on 01.08.2018, had issued statutory notice and all the contemnors appeared through video conference.

8. Mr.Aravind Pandian, learned Additional Advocate General assisted by Mr.M.Muthugeethaiyan, learned Special Government Pleader appearing for the third respondent would submit that admittedly in the review application, the third respondent has not been arrayed as a party and despite that, he has been shown as



third respondent / third contemnor in this contempt petition and he would further add that the Division Bench while disposing of the review application has also taken note of the fact that the revised plan submitted by T.V.Anand has been rejected and that the matter has been forwarded for being considered by the Empowered Committee and subsequently, the Empowered Committee also took a call and approved the revised plan having noted some infraction of the superstructure put up by T.V.Anand. In the light of the above facts and circumstances, no case of contempt has been made out and prays for closure of this contempt petition.

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

10. As rightly pointed out by the learned Additional Advocate General, admittedly, the third contemnor / third respondent is not a party to the order, which is the subject matter of contempt and the Division Bench while disposing of the review application has also taken note of the fact of rejection of revised plan submitted by T.V.Anand and that the matter is also under consideration before the Empowered Committee and had ordered the lock and sealing of the building and as on date, it remains under lock and seal and challenging the same, W.P(MD)No.10617 of 2020 is filed on the file of this Court and it is also listed 'for admission' today.

11. Though it is the submission of the petitioner / party-in-person that the subsequent development has been brought to the knowledge of the third respondent / contemnor, in the absence of the third respondent being made as a party in the review application, that order cannot bind him and that apart, this Court is of the considered view that in pursuant to the order passed in the review application, the Empowered Committee has also accorded permission for the revised plan submitted by T.V.Anand and as such, no case of contempt has been made out.

12. In the result, this contempt petition is closed and the contemnors are discharged.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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.

To:

- 1.Mr.S.Sivasubramanian,
The Commissioner,
Tiruchirappalli City Municipal Corporation,
Tiruchirappalli - 620 001.
- 2.Mr.Selvaraj,
The Member Secretary / Assistant Director,
Tiruchirappalli Local Planning Authority,
Kajamalai Main Road,
Trichy - 620023.
- 3.Mr.Rajesh Lakhoni IAS,
Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
- 4.Mr.M.Dhayanidhi,
The Assistant Commissioner,
Ponmalai Zone,
Tiruchirappalli City Corporation,
TVS Tollgate,
Trichy.

+1 CC to SGP (SR-16114[F] dated 07/09/2020)

Judgment in
Cont.P(MD)No.417 of 2020
03.09.2020

 KM (10.09.2020) 5P 6C