

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Cont. P. No.431 of 2011

K.Duraisamy,
Plot No.203, Alamelumangammal Layout
Ammankulam South,
Puliakulam Post,
Coimbatore – 641 045 .. Petitioner

Vs

R.Senthilkumar,
Plot No.202, Alamelumangammal Layout
Ammankulam South,
Puliakulam Post,
Coimbatore – 641 045 .. Respondent

Contempt Petition filed under Section 11 of the Contempts of Court Act,
praying to punish the respondent for wilful disobedience of the order passed on
22.01.2011 in M.P. No.1 of 2011 in W.P. No.1180 of 2011 with costs.

For Petitioner : Mr. K.Sudalaikannu
For Respondent : Mr. R.Selvakumar

ORDER

Alleging wilful disobedience of the interim order passed by this Court on
22.01.2011 in M.P. No.1 of 2011 in W.P. No.1180 of 2011, this contempt petition

2. The petitioner is an allottee of a plot measuring around 37.60 Sq.mtr. bearing plot No.203, in the layout known as Alamelumangammal layout, Ammankulam South, Puliakulam Post, Coimbatore. It is the case of the petitioner that the respondent who purchased the adjacent plot bearing Plot No.202, has encroached the only passage to which the petitioner had access. Hence, a Writ Petition was filed by the petitioner for the issuance of Writ of Mandamus directing the respondents 1 and 2 therein to remove the encroachment of the third respondent into the passage leading to the petitioner's residence in plot No.203. Along with the Writ Petition, the petitioner had also filed an interim application seeking Ad-Interim injunction restraining the 3rd respondent therein from proceeding further with the construction in plot No.203 which belongs to the petitioner. This Court, by order dated 02.01.2011, granted interim injunction for a period of four weeks. Alleging that the third respondent in the Writ Petition proceeded with the construction during the operation of the order of injunction, the Contempt Petition is filed.

3. The petitioner has not produced any material or correspondence to show that the respondent has put up construction during the period when interim injunction was in force. The photographs produced by the petitioner before this

Court shows that the construction was put up long back and that there is no indication that the construction took place when the order of interim injunction was in force. In the Writ Petition, final order was passed directing the second respondent therein to remove the encroachment. In such circumstances, since the photographs produced by the petitioner indicate that the construction was completed long back this Court is unable to accept the case of the petitioner that the respondent had put up construction obstructing the pathway leading to petitioner's residence, after the order of injunction granted by this Court.

4. Having regard to the facts narrated and the circumstances of the case, this Court has no positive evidence to find respondent guilty of contempt. Accordingly, this Contempt Petition is closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

bkn

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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GS/08/06/2021