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Cont.P.No.329 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Contempt Petition No.329 of 2012

C.S.Mani,
Bajanai Koil Street,
Kondankarai Village,
Kilveedhi Post, Arakkonam Taluk,
Vellore District

... Petitioner

-Vs-

1.Ajay Yadav IAS
District Collector
Vellore District, Vellore.

2.S.Inbavalli
The Block Development Officer
Village Panchayats, Nemili Panchayat Union
Arakkonam Taluk, Vellore Dist

3.G.E.Velu
The Dy. Block Development Officer (A.D.W)
Nemili Panchayat Union, Arakkonam Tk,
Vellore Dist.

... Respondent

Prayer : Contempt Petition under Section 11 of the Contempt of Courts Act, 1970, to punish the respondents for having committed Contempt of Court for disobeying the order dated 21.12.2011 in M.P.Nos.1 and 2 of 2011 in W.P.No.29487 of 2011.



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For Petitioner : Mr.G.Jeremiah
For Respondent : Mr.M.Elumalai, Additional Govt.Pleader

ORDER

This Contempt Petition has been filed for the alleged disobedience of the interim order granted by this Court in M.P.Nos.1 and 2 of 2011 in W.P.No.29487 of 2011.

2. By the said interim order dated 21.12.2011, this Court has granted an interim order of stay of auction of Item No.2 alone. Item No.2 alone means, the fishing right of the tank which is situated at Vepery Village in Nemili Panchayat Union, Vellore District.

3. According to the petitioner, though the said order of stay was granted on 21.12.2011 and after having knowledge about the stay granted by this Court, the officer concerned conducted the auction on 22.12.2011 at 4.00 p.m. Therefore, it is a willful violation of the orders of this court.

4. It is the further case of the petitioner that, since the respondents has conducted the auction in alleged violation of the orders of this Court, on behalf of the petitioner, a legal notice was issued on 28.01.2012, where it has been stated that, in violation of the order, auction for item No.2 was conducted and therefore the petitioner would initiate contempt proceedings

<https://hcservices.ecourts.gov.in/hcservices> against the respondents / contemnors.



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5. Only on this ground, this contempt petition has been filed alleging that, there has been a willful disobedience of the orders of this Court.

6. Subsequently, notice was ordered and on behalf of the respondents, especially the second respondent, counter affidavit has been filed on 24.02.2021. The following averments made in the counter affidavit has been heavily relied upon by Mr.M.Elumalai, learned Additional Government Pleader appearing for the respondents :

"I respectfully submitted that the writ petition was filed in the year 2011 challenging the auction notice pertaining to two lakes. After the writ petition, successive auctions have been conducted from time to time to augment the income of the panchayat. I hereby reiterate that the auction dated 22.12.2011 was conducted by my predecessor without notice of the order of interim stay dated 21.12.2011 passed by this Honourable Court in the above writ petition. The petitioner also did not brought to the notice of the respondents immediately after the interim stay was granted on 21.12.2011. The petitioner was a spectator to the auction but after the auction was confirmed, he had filed the present writ petition as if the



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respondents have violated and flouted the orders of this Honourable Court. I respectfully submit that in para No.7 of the affidavit filed in support of the present contempt petition, it was stated that "in law it is presumed that all the respondents had knowledge of the order of stay dated 21.12.2011 granted by the Honourable High Court in M.P.No.2 of 2011 in W.P.No.29487 of 2011." Further in Para No.8, it was stated that "I further state that after obtaining the order copy from this High Court on 21.12.2011, I had communicated the same to the respondents 2 and 3 in person on 22.12.2011, however, the respondents 2 and 3 refused to receive and honour the order passed by this Honourable Court dated 22.12.2011 made in M.P.No.2 of 2011 in W.P.No.29487 of 2011. I respectfully submit that if the averments in para No.8 are true, the petitioner would have stated so in the legal notice dated 28.01.2012. But nothing has been stated in the notice dated 28.01.2012 about the petitioner serving the copy of the order to the respondents 2 and 3 in person or the refusal thereof by the respondents 2 and 3."

7. The learned Additional Government Pleader would further submit

that, though the interim order of stay was granted on 21.12.2011, the copy of



9. I have considered the said submission, however, the said submission made by the learned counsel for the petitioner cannot be accepted for the simple reason that, on 28.01.2012, on behalf of the petitioner, a legal notice has been issued, where the following averments have been made.

"My client states that the Honb'le High Court was pleased to grant an order of stay of the auction on 21.12.12 after notice to the Government Pleader. Hence in law it could be safely presumed that all of you had knowledge of the order of stay dated 21.12.11 granted by the Hon'ble High Court in M.P.No.2 of 2011 in W.P.No.29487 of 2011."

10. Therefore, even on 28.01.2012, when the legal notice was issued on behalf of the petitioner, it has never been stated that, the copy of the stay order dated 21.12.2011 was submitted either on 21.12.2011 or 22.12.2011 and except the legal notice dated 28.01.2012, no other earlier communication was there to establish the fact that, the copy of the stay order passed by this Court has been produced or it has been brought to the knowledge of the respondents / contemnors before 4.00 p.m. on 22.12.2011, as the auction was conducted at that time.



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11. In that view of the matter, by perusing the aforesaid documents, this Court has no hesitation to hold that, the respondents had no knowledge about the orders passed by this Court dated 21.12.2011, therefore, they conducted the auction on 22.12.2011 as scheduled. Therefore, it cannot be said that, having knowledge about the interim order of stay, they have willfully disobeyed the orders of this Court and conducted the auction.

12. In view of the above, this Court feels that, no contempt proceedings can be initiated against the respondents and accordingly this contempt petition can be closed. Hence, this Contempt Petition is closed.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

tsvn/kst

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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GS/06/07/2021

To

1.The District Collector
Vellore District, Vellore.

2. The Block Development Officer
Village Panchayats, Nemili Panchayat Union
Arakkonam Taluk, Vellore Dist



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3. The Dy. Block Development Officer (A.D.W)
Nemili Panchayat Union, Arakkonam Tk,
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