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Cont.P.No.661 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Cont.P.No.661 of 2019

1. A.B. Sardar
2. Yousuf Ali Khan
3. Rabbani
4. Khader Basha
5. Rashid
6. Syed Musa
7. Mubarak
- 8.

... Petitioners

Vs

1. S.P. Naseer
2. S.P. Aleem
3. Rahman Khan
4. Murad Khan
5. Syed Babu

... Respondents

Prayer : Petition filed under Section 11 of the Contempt of Court Act to punish the respondents for disobedience of order dated 28.02.2019 in CMP.No.4299/2018 in CRP No.780/2018.

For Petitioners : Mr. A. Ajimath Begam

For Respondents : Mr. Perumbulavil Radhakrishnan
for M/s Na. Thare for R1 and R2
Mr. Fiyaz Ali, Standing Counsel
for Wakf Board
Mr. A. Hari, GA



ORDER

The above Contempt Petition was filed as early as on 26.03.2019 alleging that the orders of this Court dated 28.02.2019 in CRP. No.780 of 2018 had been disobeyed.

2. It is the case of the petitioners that in the case of marriage to be conducted in the Mosque a person has to be a Member of the Mosque. The first respondent had approached the first petitioner along with one Eaasa Nabi Sahib for permission to conduct the Nikkah on 10.03.2019. The first-petitioner had replied to the first-respondent to follow the order of this court dated 28.2.2019.

3. Earlier, the first and second respondents had filed a suit OS.No.486 of 2016 as representatives of Muslim residents of Kalavai Village on the file of the Waqf Tribunal, Vellore for various reliefs. They had also filed interim application in IA.No.522 of 2016 for an interim relief praying for an injunction restraining the petitioners from refusing and preventing the respondents and others from peaceful practice, worship, solemnizing of marriage, burying of dead bodies and other regular practice.

4. The Waqf Tribunal had granted an interim order, which was challenged before this Court by the petitioners in CRP.No.780 of 2018. The petitioners had also moved interim applications for staying the operation of the order dated



18.01.2020 made in I.A.No.522 of 2016 in OS.No.486 of 2016.

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5. By order dated 28.02.2019, this Court was pleased to suspend the order of interim injunction. However, while suspending the order this Court had observed that with reference to the burial the same could take place since it is a common burial ground, but with reference to the marriage a person has to be a member of the Mosque. After the orders of this Court, the first petitioner had informed the first respondent about the orders of this Court dated 28.02.2019 and informed the first respondent and the said Mr.Eaasa Nabi Shaib that the marriage could not be conducted. However, all of a sudden, on 10.03.2019, the respondents, their men and agents broke open the mosque and barged into the office and conducted the marriage in the premises totally violating the orders of this court. Therefore, the petitioners had come up by way of this contempt petition.

6. Though notice was served, the respondents did not enter appearance, ultimately this Court had directed statutory notice to the respondents 1 and 2, which was also not complied with. By order dated 21.01.2020 the Inspector of Police, Kalavai Police Station was directed to produce respondents 1 and 2 before this Court. The respondents thereafter appeared before the Court and had filed their counters. In the counter filed by the counsels for the wakq board it is stated



that the marriage was not solemnized at the Masjid. The marriage was not solemnized with the marriage register of the first-petitioner, but it was a register from another Masjid at Arcot. Further, on the investigation undertaken by the police pursuant to the complaint given to them, they had come to know that no such incident as alleged had taken place. The complaint was thereafter closed as withdrawn and compromise was effected between the parties on 11.03.2019. This fact has been suppressed by the petitioners. Meanwhile the police had submitted a report regarding the status of the complaint lodged before the Kalvai Police by A.B. Sardar, the first petitioner before this Court against the respondents.

7. He would submit that the complainant had refused to grant permission to the aforesaid parties to conduct the marriage and after they had begged that the wedding invitation had been printed, the aforesaid parties were permitted to conduct the wedding. But, however, the wedding was not conducted by the complainant but by the Muthawalli from another mosque. The marriage ceremony took place in the mosque and thereafter all had moved out to the Marriage hall.

8. In the course of the argument, the respondents had submitted that the first



petitioner's son had also participated in the wedding ceremony and therefore he

would also be impleaded as a party to the contempt proceedings.

9. By order dated 26.02.2020, the petitioners were directed to implead the sons of the Muthawalli and Eaasa Nabi Sahib, who participated in the marriage. However to date, the petitioners have not brought up the said application, and this matter has been adjourned on several dates so as to enable the petitioner to bring up the said application. The matter stood listed and adjourned on 03.03.2020, 13.03.2020, 18.03.2020, 07.12.2020, 22.12.2020, 21.01.2021, 03.02.2021 and 10.02.2021.

10. On 10.02.2021, there was no representation on the side of the petitioners and neither was the impleading petition was filed. Therefore, the matter was posted under the caption “for dismissal”.

11. Today, when the matter was called, once again a request is made for adjournment stating that the petitioners would bring up the Impleading application. It is clearly evident that the petitioners are reluctant to proceed further with the Contempt Petition from the date the first petitioner's son has been directed to be impleaded as a party to the proceedings.



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12. In the circumstances, the Court is of the view that the allegations of Contempt appears to be more in the form of an arm-twisting tactics. Therefore, this Court finds no merit in the Petition. Accordingly, the Contempt Petition stands dismissed.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

mrn

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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GS/02/07/2021