



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 14TH DAY OF JUNE 2021

THE HON'BLE MR. JUSTICE V PARTHIBAN

A.No.1537 of 2021

in

C.S.No.245 of 2020

Mr.Ashok Bajaj
8/15, Padmavathiyar Road,
Jeypore Nagar,
Gopalapuram,
Chennai- 600 086

..Applicant/Plaintiff

-Versus-

1.Mr.Dilip Bajaj,
Old No.7, New No.13,
Padmavathy Road,
Jeypore Colony,
Gopalapuram,
Chennai- 600 086

2.Mr.Vivek Bajaj
8/14, 1st Cross Street,
Chowdary Colony of Kothari Road,
Nungambakkam,
Chennai- 600 034

3.Mrs.Prabha Talwar
6E, 6th Floor, G.G.Minor,
College Road,
Nungambakkam,
Chennai- 600 034

4.Mrs.Sneha Rajpal,
No.702, Mahabir Prashad Block
Asiad Village, Khelgaon,
New Delhi- 110 049

..Respondents/Defendants



Application praying that this Hon'ble Court be pleased to punish the First Respondent the act for willfully disobeying and defying the order dated 08.10.2020, 19.11.2020 and 15.12.2020 in O.A.No.451 of 2020 in C.S.No.245 of 2020 pending on the file of this Hon'ble Court, in accordance with law.

This Application coming on this day before this court for hearing, the Court made the following order:

The application is filed by applicant / plaintiff seeking to punish the first respondent / first defendant for defying and disobeying the orders of this Court dated 08.10.2020, 09.11.2020 and 15.12.2020 in the above Suit.

2. According to the learned counsel for the applicant herein, the first respondent, by erecting permanent civil construction, has violated the undertaking given by him to the Court that only a temporary structure would be erected and no claim would be raised against the said construction. On the other hand, he has put up permanent additional civil construction, which is directly in contravention of the interim orders passed by this Court which were passed on the basis of the undertaking given by the first respondent.

Therefore, the first respondent herein is liable to be punished for willful disobedience and defying the undertaking given by him.



WEB COPY

3. Per contra, Mr.S.Rajasekaran, the learned counsel appearing for the first respondent, would draw reference to the interim orders passed by this Court and would submit that the action of putting up construction by the first respondent would not amount to either disobedience or defiance of the orders of this Court or his undertaking. He would particularly draw reference to the orders passed at various points of time, when the matter was listed for hearing.

4. This Court finds that apart from the interim order of not to alienate the subject property, the learned Judge of this Court in O.A.No.451 of 2020 in C.S.No.245 of 2020 dated 19.11.2020, has observed as under:

“2. It is submitted by the learned counsel for the applicant that considering the nature of the building which is very old, the engineer suggested that temporary structure cannot be put up. He further submitted that with regard to the suit schedule property, a Will dated 28.06.1999 is in favour of the first respondent and if the Will is proved certainly the first respondent would get the property.

3. Such view of the matter, though the Will is in favour of the first respondent, any construction put up by the first respondent is always subject to the result of the suit.



4. Accordingly, the interim order passed by this Court shall continue and post the matter on 15.12.2020.”

WEB COPY

5. The learned counsel for the first respondent would therefore submit that the fact that the temporary structure could not be put up was brought to the knowledge of this Court earlier and taking that fact into account, the learned Judge has clearly observed that any construction put up by the first respondent is subject to the result of the suit. In the above circumstances, the present application filed seeking to punish the first respondent is totally unwarranted and uncalled for. Therefore, he would submit that the application is without any merit and liable to be dismissed.

6. This Court is completely in agreement with the submission of the learned counsel for the first respondent that the application in the circumstances of the case is totally ill-advised and uncalled for. when this Court was clearly informed about the fact that the temporary structure could not be put up on the advice of the Engineer and thereafter, a clear observation has been made that any construction put up by the first respondent would subject to the result of the suit, the construction which is the subject matter of dispute in the present application, cannot be said to be



herein seeking to punish the first respondent for his disobedience, is completely misplaced and misconceived and this application in the opinion of this Court is completely without any merits and liable to be dismissed.

7. Accordingly, this application stands dismissed.

Sd./-V.P.N.J
14.06.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.