

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.11.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

Contempt Petition No.932 of 2021

S.M.Govindasamy

No.2, East Street, Sottaiyampalayam,

R.N.Pudur Post, Erode -638 005.

.. Petitioner

Vs.

M.Elangovan,

Commissioner,

Erode Municipal Corporation,

Erode - 638 001.

.. Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to initiate contempt proceedings against the respondent for his willfull disobedience of this Court's order dated 22.09.2020 in W.P.No.11341 of 2020 and punish the respondent.

For Petitioner : Mr.A.Suresh Sakthi Murugan

For Respondent : Mr.M.Rajamathivanan

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

Alleging non-compliance of the order of this Court dated 22.09.2020 passed in W.P.No.11341 of 2020, this Contempt Petition has been filed by the writ petitioner.

2. The facts in brief are as under :

2.1. Govindasamy filed W.P.No.11341 of 2020 with the following prayer :

“Petition under Article 226 of the Constitution of India praying for a writ of mandamus directing respondents 1 to 3 to remove the illegal and unauthorised construction erected by the 6th and 7th respondents on the lands classified as agricultural use situated at Survey No.432 in Suriyampalaym “B” village, Sottaiyampalayam, Ward No.4, Erode and stop the functioning of power looms running by them without any permission at that place, within a stipulated time.”

2.2. In the said writ petition, Govindasamy had arrayed several public authorities, including the Commissioner, Corporation of Erode. Apart from the public authorities, he had also arrayed the alleged encroachers as respondents 6 to 8, in the said writ petition. This Court passed the following order in the said W.P.No.11341 of 2020 on 22.09.2020 :

“2.Heard the learned counsel appearing for the parties.

3.Learned counsel appearing for the second respondent submitted that as against the eighth respondent, notice under Sections

296(1) and (2) of the Erode City Municipal Corporation Act, 2008 (Tamil Nadu Act 8 of 2008) has already been issued.

4.As action has already been taken, we do not propose to keep the writ petition pending any longer. However, we direct the second respondent to take the aforesaid action initiated to the logical conclusion. The aforesaid exercise will have to be concluded within a period of eight weeks from the date of receipt of a copy of this order. The second respondent shall also hear the petitioner as action is initiated only at his instance.

5.The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.”

2.3. Alleging that the Commissioner, Corporation of Erode, has not complied with the aforesaid direction, Govindasamy has filed the present Contempt Petition.

3. On 16.11.2021, we passed the following order :

“When the matter was taken up for hearing, Mr.Rajamathivanan, learned Standing Counsel for the Erode Municipal Corporation submitted that the Municipal Corporation does not have the power to demolish buildings which measures more than 200 square meters and that for demolishing such illegal constructions, the power is vested with the Erode Local Planning Authority. He further submitted that in the instant case, the unauthorised construction is to an extent of 5,177 square feet, which is beyond 200 square meters.

2. However, the learned counsel for the petitioner brought to the notice of this Court the Government Order in G.O.(Ms)No.289, Housing & Urban Development (UD 4-1) Department dated 16.12.2010, under which, powers under Sections 56 and 57 of the Tamil Nadu Town and Country Planning (Amendment) Act, 2008, had been delegated to the Commissioners of Corporations. Based on this, the learned counsel for the petitioner refuted the aforesaid submissions of the learned Standing Counsel.

3. The learned Standing counsel for the Erode Municipal Corporation submitted that he will get instructions with regard to the said Government Order and report to this Court.

Post this matter on 30.11.2021.”

4. Today, when the matter was taken up for hearing, Mr.K.Sivakumar, Commissioner, Erode City Municipal Corporation, filed a report dated 27.11.2021, wherein, he has stated as follows :

“4. It is humbly submitted that the respondent already been issued notice under Section 296(1) of the Erode City Municipal Corporation Act dated 06.07.2020 and another confirmation notice also issued u/s 296(3) of Erode City Municipal Corporation Act dated 22.07.2020 even prior to filing the above writ petition.

5. It is humbly submitted that this respondent further taken steps against the violator and filed charge sheet before the Judicial Magistrate No.III, Erode. The summons to an accused person in S.T.C.No.2175 of 2020 and imposed cost of Rs.1000/- to an accused person u/s 447(c) of Erode City Municipal Corporation Act.

6. It is humbly submitted that thereafter this respondent has send a letter to 3rd respondent in W.P.No.11341 of 2020 the Member Secretary, Erode Local Planning Authority *vide* office proceedings Na.Ka.No.1348/E1/2021 dated 19.08.2021 and another letter has also send to the Member Secretary, Tamil Nadu Pollution Control Board, Erode, *vide* office proceedings Na.Ka.No.1348/E1/2021 dated 19.08.2021 to take further action against the violators.

7. It is humbly submitted that this respondent has issued lock and seal notice to Shanmugasundaram 8th respondent in W.P.No.11341 of 2020 to restore its original condition within 14 days from date of receipt of copy of the notice dated 08.09.2021 *vide* office proceedings Na.Ka.No.1348/E1/2021. The said Shanmugasundaram has filed W.P.No.22893 of 2021 to challenge the impugned notice issued by this respondent no interim order is there and the writ petition is pending.

8. It is submitted that the violator Shanmugasundaram not respond the impugned lock & seal notice issued by this respondent dated 08.09.2021. The respondent has taken further action against the violator on 26.11.2021 the entire building was lock and sealed, the

action initiated to the logical conclusion. This respondent has complied the order passed in W.P.No.11341 of 2020 and take appropriate action against the unauthorised building.”

In view of the compliance with the order dated 22.09.2020, alleging non-compliance of which this Contempt Petition has been filed, this Contempt Petition stands closed.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

gya

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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Gs/04/02/2022