



WEB COPY

Cont.P.No.1047 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.08.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

Contempt Petition No.1047 of 2021

M/s.Arun Excello City Developers Private Limited

Rep. by its Managing Director

P.Suresh

Bhattad Towers

No.18, West Cott Road

Royapettah, Chennai-14

.. Petitioner

Vs.

1.Shanthi,

No.279, Tiruvalluvar Street,

Mathur Village,

Sriperumpudur Taluk,

Kancheepuram District

2.Jayamugilan,

Angalamman Koil Street,

No.99, Mathur Village & Post,

Sriperumpudur Taluk,

Kancheepuram District

.. Respondents

Petition filed under Section 10 of the Contempt of Courts Act, 1971, to punish the respondents for their wilful and deliberate disobedience of the interim order dated 03.10.2016 made absolute in I.A.No.49 of 2014 in O.S.No.14 of 2014 pending on the file of the Sub Court, Kanchipuram.



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For Petitioner : Ms.R.Kamalarani

ORDER

[Order of the Court was made by R.N.MANJULA, J.]

This Contempt Petition has been filed to punish the respondents for their alleged wilful and deliberate disobedience of the interim order dated 03.10.2016 made absolute in I.A.No.49 of 2014 in O.S.No.14 of 2014 pending on the file of the Sub Court, Kanchipuram.

2. Heard Ms.R.Kamalarani, learned counsel for the petitioner and perused the materials placed on record.

3. In a civil suit filed by the petitioner against the respondents in O.S.No.14 of 2014 on the file of the Sub Court, Kanchipuram, an interlocutory petition has also been filed in I.A.No.49 of 2014 seeking to restrain the defendants from encumbering the suit property. The learned trial Judge has granted an order of injunction in the said interlocutory application. No doubt, the injunction petition has been filed under Order XXXIX Rules 1 and 2 CPC. Now, the petitioner has submitted that the respondents have disobeyed the order of injunction so granted by the Sub Court, Kanchipuram, by giving pressure to the petitioner for alienating the property.



4. Admittedly, the dispute with regard to the right of the property is pending before the civil Court. As per Order XXXIX Rule 2A CPC, for any breach or disobedience of the injunction order granted by the civil Court, the following powers have been given to the same Court which has granted the injunction order.

5. For the sake of easy reference and better understanding, Order XXXIX Rule 2A CPC is extracted as under :

“2A. Consequence of disobedience or breach of injunction -

(1) In the case of disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release.

(2) No attachment made under this rule shall remain in force for more than one year, at the end of which time if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto.”

As per the aforesaid provision, the contempt action against a person who has disobeyed the order of injunction, can be taken by the Court which has granted the injunction, by invoking the powers vested as above.



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Under such circumstances, this contempt petition cannot lie before this Court and hence, the same stands closed, with liberty to the petitioner to work out his remedies in the manner known to law.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

gya

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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