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Contempt Petition No.2021 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:25.02.2021

CORAM:

**THE HON'BLE MR. JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI**

Contempt Petition No.2021 of 2019

in W.P.No.31848 of 2018

R. Nagarathinam,
Door No.5, Vadamalaigounder Lane,
Ward No.6, Pachapalayam,
Palladam 641 664
Tirupur District

... Petitioner

v.

Tmt. A.R. Shanthi,
The Tahsildar, Palladam Taluk,
Palladam Tirupur District.

... Respondents

Prayer: Contempt Petition filed under Section 11 of Contempt of Courts Act to punish the respondent herein for committing contempt of court by willfully and wantonly disobeying the order passed by this Court dated 14.02.2019 in W.P.No.31848 of 2018.

For Petitioner : Mr. P.M.Duraiswamy

For Respondent : Mr. A.N.Thambidurai,
Special Government Pleader

Mr. V. Gnanasubramanian
Advocate Commissioner



ORDER

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(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above Contempt Petition to punish the respondent-Tahsildar, Palladam Taluk, Tirupur District for disobeying the orders of this Court dated 14.02.2019 made in W.P.No.31848 of 2018.

2. After the filing of the Contempt Petition, the Tahsildar, Palladam Taluk, by name, D.Sivasubramanian, filed a Status Report stating that the encroachment made in the land in S.F.No.1870/14 was already removed.

3. Disputing the Status Report filed by the said Tahsildar, the petitioner took out an application seeking for appointment of an Advocate Commissioner. Accordingly, this court also appointed Mr. V. Gnanasubramanian, Advocate, as Commissioner to inspect and file a report as to the alleged encroachment. The Commissioner also filed a report dated 18.03.2020 wherein he has noted that the encroachment was till there and it has not been removed.

4. Subsequently, another Tahsildar, by name, S.Devaraj, filed an Additional Status Report wherein he has specifically stated that the erstwhile Tahsildar, viz., D.Sivasubramanian, committed error in filing a Status Report as though the encroachment was removed. In paragraph No.5 of the Additional Status Report, the Tahsildar has stated that the



private respondents 5 and 6 themselves have removed the encroachments pointed out by the Advocate Commissioner and as on date of the filing of the Additional Status Report, there was no encroachment.

5. Mr. P.M.Duraiswamy, learned counsel appearing for the petitioner submitted that as of today, there is no encroachment in the property in dispute and that unnecessarily the petitioner was driven to spend huge amount for prosecuting the present Contempt Petition.

6. On a perusal of the materials available on record, it could be seen that the petitioner had paid a sum of Rs.15,000/- as remuneration to the Advocate Commissioner. Now, the Advocate Commissioner has also filed a petition seeking for additional remuneration. Had the erstwhile Tahsildar not filed a false Status Report as though the encroachment was removed, they would not have been any necessity for appointing an Advocate Commissioner to ascertain the removal of the encroachment. As already contended by the learned counsel for the petitioner, the petitioner was unnecessarily driven to pay a sum of Rs.15,000/- as remuneration to the Advocate Commissioner.

7. In these circumstances, we are of the considered view that the amount paid by the petitioner to the Advocate Commissioner should be reimbursed by the Tahsildar, viz., D.Sivasubramanian. Further, he should



also pay an additional remuneration to the Advocate Commissioner.

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8. Accordingly, we direct D.Sivasubramanian, presently working as Section Officer, Civil Supplies Department, Secretariat, Chennai, to pay a sum of Rs.15,000/- to the petitioner and a sum of Rs.10,000/- additional remuneration to the Advocate Commissioner within a period of one week from the date of receipt of a copy of this order. The learned counsel for the petitioner and the Advocate Commissioner shall provide their Bank details to Mr. A.N.Thambidurai, learned Special Government Pleader, enabling the erstwhile Tahsildar to deposit the amount as stated above in their account. Since the encroachments have already been removed, we do not find any reason to keep the Contempt Petition pending. Accordingly, the Contempt Petition is closed. No costs.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

rj

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.



Contempt Petition No.2021 of 2019

To

1. The Tahsildar,
Palladam Taluk, Palladam, Tirupur District.

2. Thiru.D.Sivasubramanian,
Section Officer,
Civil Supplies Department,
Secretariat, Chennai 600 009