



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2021

CORAM :

THE HONOURABLE **MRS. JUSTICE R.THARANI**

Cont.P.(MD)No.296 of 2021

in

Crl.R.C.(MD)No.94 of 2021

D.Kasimayan ... Petitioner/Petitioner/Revision Petitioner

vs.

Raj Kumar,
The Sub Divisional Officer
and Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Usilampatti,
Madurai District. ... Contemnor/Respondent No.1/Respondent No.1

Prayer: Petition filed under Section 11 of Contempt of Courts Act to initiate contempt proceedings against the Contemnor/Respondent no.1 and punish him for the willful disobedience of the order of this Court in Criminal Revision Case in Crl.M.P.(MD)No.1143 of 2021 in Crl.R.C.(MD) No.94 of 2021 dated 15.02.2021.

Prayer in CRL MP(MD). 1143/ 2021 :

To stay all further proceedings of the impugned order in Rc.A1/229/2021 dt.6.2.2021 on the file of the Respondent till the disposal of the instant Criminal Revision Petition.

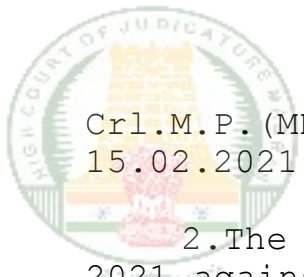
Prayer in CRL RC(MD). 94/ 2021 :

Petition filed praying that in the circumstances stated therein and in the petition filed therewith in the High Court may be pleased to call for the records pertaining to the order in Rc.A1/229/2021 dt.6.2.2021 on the file of the Respondent No.1 and set aside the same.

For Petitioner : Mr.S.Rajasekar
For Respondent : Mrs.S.Bharathi
Government Advocate (Crl. Side)

ORDER

This Contempt Petition has been filed to initiate contempt proceedings against the Contemnor/Respondent and to punish them for the willful disobedience of the order of this Court in



Crl.M.P.(MD)No.1143 of 2021 in Crl.R.C.(MD) No.94 of 2021 dated 15.02.2021.

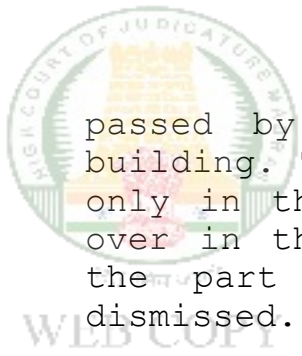
2.The petitioner approached this Court in Crl.R.C.(MD)No.94 of 2021 against the order under Section 138 of Cr.P.C., passed by the respondent in Roc.No.A1/229/2021 dated 06.02.2021. This Court in Crl.M.P.(MD)No.1143 of 2021 has ordered status quo on 15.02.2021. On 16.02.2021, the first respondent violated the status quo order and thereby committed contempt and hence, the petitioner filed this contempt petition.

3.On the side of the petitioner, it is stated that regarding Survey No.238/23A, the Revenue Department and Public Works Department officials tried to demolish the wall of the petitioner and the petitioner approached this Court by way of writ petition in W.P.(MD)No.2435 of 2021. That petition was dismissed by the Court. But short status quo order for a period of three days was granted by this Court on 08.02.2021. That order was extended by this Court by its order dated 15.02.2021. Though the learned Government Advocate has taken notice for the respondent, the respondent failed to oblige the order of the Court and demolished the wall of the petitioner and thereby the first respondent is liable for contempt.

4.On the side of the respondent, it is stated that the water that flows from the Vaigai river is stored in Usilampatti Kanmoi and from Usilampatti Kanmoi, the water flows along a channel and is stored in Aanaiyur Chinnakulam Kanmoi. The wall of the petitioner was blocking the way of the channel and thereby preventing water storage at the Chinnakulam Kanmoi. The wall of the petitioner was causing hindrance to the cultivating villagers of Potalupatti village.

5.The water has to be stored within ten to twelve days in accordance with the water flow in the Vaigai river. Due to the emergency, the respondent has passed a preliminary order for demolishing the wall. A writ petition in W.P.(MD)No.2435 of 2021 was filed against the order under Section 133(1)(a) of Cr.P.C. That petition was dismissed by this Court with liberty for the petitioner to file a petition questioning the order passed under Section 138 of Cr.P.C. A status quo order was granted for three days from 09.02.2021 till 11.02.2021. This petition was filed against the order under Section 138 of Cr.P.C. Without eliciting the fact that the earlier status quo order expired on 11.02.2021, the petitioner has obtained the status quo order on 15.02.2021 at the admission stage.

6.Though the learned Government Advocate takes notice for the respondent, the respondent is not aware of the status quo order



passed by this Court at the time of the demolition of the building. The order was brought to the knowledge of the respondent only in the afternoon of 16.03.2021 but the demolition work was over in the morning itself. There was no wilful disobedience on the part of the respondent and prayed the petition to be dismissed.

7.It is seen that the order of status quo was passed on the date of admission of the petition. Though the learned Government Advocate has taken notice for the respondent on that date, the learned Government Advocate is not aware of the facts and circumstances of the case on the particular date and the copy of the order was not furnished to the learned Government Advocate on the particular date. It is seen that the order was passed on 15.02.2021 but the demolition was done on 16.02.2021 in the morning. The learned counsel for the petitioner has stated that the petitioner did not inform the respondent regarding the order in the morning before the demolition of the building. It is stated that the order was brought to the knowledge of the respondent only in the afternoon of 16.02.2021. Since the Revenue Divisional Officer was not aware of the order of this Court dated 15.02.2021, there cannot be a willful disobedience on the part of the respondent.

8.In view of the above, this Contempt petition is dismissed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To ஸ்ரீ ராஜ் குமார்

Raj Kumar,

The Sub Divisional Officer and Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Usilampatti,
Madurai District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-11697[F] dated
17/03/2021)

Cont.P.(MD)No.296 of 2021

TP(CO)

TR(26.04.2021) 4P 3C