



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Cont.A.(MD)No.7 of 2019

and

C.M.P.(MD)Nos.3312 of 2019 and 1370 of 2020

1.T.Thomas Payas Arul

2.C.Malardevan ... Appellants/1st Respondent/1st Respondent
[2nd appellant arise as party as successor of the 1st appellant
as a Tahsildar Eral Taluk]

Vs.

1.D.Muthukaruppa Pillai @ Velayutham

... 1st Respondent/Petitioner/Petitioner

2.T.Deivathadiyan @ Manikandan

... 2nd Respondent/Impleaded Petitioner/Nil

Prayer : Contempt Appeal filed under Section 19(4)(a) of the Contempt of Court Act, 1971, to set aside the order of this Court made in Cont.P.(MD)No.1149 of 2018, dated 12.03.2019 and allow the Contempt Appeal.

Prayer in CONT P(MD). 1149/ 2018 :

Petition filed under Section 11 of Contempt of Courts Act, to punish the first and second respondents for their deliberate and wilful disobedience of this Court dated 30.05.2018 passed in WP(MD) NO.11531 of 2018, on the file of this Court.

Prayer in WP(MD). 11531 of 2018 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a writ of mandamus directing the respondents to consider the representation of the petitioner dated 17.05.2018 and pass appropriate orders as per law.

For Appellants : Mr.K.P.Krishnadoss
Special Government Pleader

For R1 : Mr.Rama Moorthi

For R2 : Mr.J.Ashok

* * * * *



JUDGEMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This contempt appeal has been preferred against the order of the learned Single Judge, calling the appellants for having committed the contempt of the order passed in W.P.(MD)No.11531 of 2018, dated 30.05.2018.

2.Respondent No.1/Contempt Petitioner filed a suit in O.S.No.133 of 2007 and obtained a decree, declaring him as the Hereditary Trustee/Poojari with the consequential prayer of permanent injunction. In the said Suit, the appellants were not parties. Seeking to implement the said decree by the appellants, the Writ Petition was filed. In the said Writ Petition, the learned Single Judge passed the following order:-

'4.Considering the nature of the prayer sought for by the petitioner, this writ petition is disposed of with the following direction:

(i)The respondents 4 and 5 are directed to consider the petitioner's representation dated 17.05.2018 and pass orders on merit and in accordance with law, in the light of the judgment and decree passed in O.S.No.133 of 2007, dated 23.03.2011, after giving personal opportunity to the petitioner, within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.'

3.In the purported compliance of the said order, the appellants passed a detailed order, dated 26.11.2018.

4.Alleging that the order passed in the Writ Petition has not been complied with, respondent No.1 has filed the Contempt Petition.

5.The learned Single Judge called the appellants for contempt. Challenging the same, the present contempt appeal has been filed.

6.Law is quite settled that when an order passed by the authority in the purported compliance of the order passed by this Court, no wilful disobedience would arise. In the case on hand, the appellants were merely directed to pass orders by taking note of the decree, in which, they were not parties, admittedly.

7.In such view of the matter, we are inclined to set aside the order of the learned Single Judge, dated 12.03.2019, made in Cont.P.(MD)No.1149 of 2018. Accordingly, the same is set aside and this Contempt Appeal is allowed. Liberty is given to the



respondents to work out their remedy in the manner known to law. Consequently, connected C.M.Ps. are closed.

Sd/-

Assistant Registrar(RTI Act)

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Sub Assistant Registrar(CS)

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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

1. The Tahsildar, Srivaikundam Taluk,
Thoothukudi District.
2. The Tahsildar, Eral Taluk, Thoothukudi District.
3. The Section Officer, Contempt Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.L.SHAJI CHELLAN, Advocate (SR-13175[F] dated 24/03/2021)

Cont.A. (MD)No.7 of 2019

23.03.2021

VR(CO)

TR(07.05.2021) 3P 5C