



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the First day of July Two Thousand and Nineteen

WEB COPY

CORAM:

The Hon`ble Mr.Justice S.S.SUNDAR

SUB A(MD) No.119 of 2019

IN

CONT P(MD) No.596 of 2018

O.THANGARAJ,

...PETITIONER/PETITIONER

Vs

BALAGURU,

THE INSPECTOR OF POLICE, ANDIPATTI POLICE STATION,
ANDIPATTI, THENI DISTRICT.

... CONTEMNOR/RESPONDENT

PRAYER IN SUB A(MD)No.119 OF 2019:

Sub Application is filed under Order 9 Rule 9 of Civil Procedure Code praying this Hon'ble Court to restore the Cont P(MD) No.596 of 2018.

Prayer in CONT P(MD).No. 596 of 2018 :

Contempt Petition is filed under Section 11 of Contempt of Courts Act, praying this Hon'ble Court to punish the respondent for the deliberate and willful disobedience of the order dated 07.12.2017 passed by this Hon'ble Court in Crl.OP(MD)No.16829 of 2017.

Prayer in CRL OP(MD).No. 16829 of 2017 :

Criminal Original Petition is filed under section 482 of Criminal Procedure Code praying this Hon'ble Court to direct the 2nd Respondent to give necessary police protection to the Petitioner and his family members for their life and limb and their properties bearing S. Nos. 308/2, 307/2 and 307/1 in implementation of order dated 21.07.2017 in E.A No. 1/2016 in O.S No. 110/2005 on the file of the District Munsif Judicial Magistrate Andipatti in accordance with law.

ORDER:

Sub Application is coming on for hearing on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.Ajmeer Kaja, Advocate for the petitioner and of Mr.R.Anandharaj, Additional Public Prosecutor, on behalf of the respondent, this Court made the following order:

Contempt petition was filed earlier by the petitioner in Cont.P.(MD).No.596 of 2018 for alleging wilful disobedience of the order passed by this Court in Crl.O.P.(MD).No.16829 of 2017, dated 07.12.2017.



2.The petitioner herein contended that the contemnor namely the respondent has not obeyed the order of this Court, dated 07.12.2017. During the pendency of the contempt petition, this Court has directed the petitioner to implead the person against whom he obtained police protection. This Court on the basis of the counter affidavit filed by the respondent and based on the photographs shown by the respondent/contemnor, directed the petitioner to file an affidavit stating the need for police protection. Since the petitioner did not explain as to why he need police protection, especially taking note of the photographs shown before this Court which shows that the property in dispute is not in regular use, where cultivation is not seen and the land which is shown in the photographs are nothing but waste land, full of thorny bushes, this Court closed the contempt. However, the petitioner stating that the order of this Court closing the contempt is on the misconception and based on the false photographs, filed the present application to restore the contempt petition.

3.In this petition, a Commissioner was appointed and filed a report. The Commissioner as a matter of fact found that one Davasi S/o Ochathevar, who is the adjacent land owner interfered with the Inspection by his rude behaviour in the presence of police officials. The Advocate commissioner has found that some of the photographs captured by respondent cannot be identified on ground. It was further noted that several photographs could not be identified as to whether those photographs were taken in respect of the property in dispute or not. It is further observed that the Advocate Commissioner, could identify the land on ground by the photographs produced by the petitioner and that the picture shown in the photographs filed by the petitioner before this Court would depict the property which is in dispute in the contempt petition and it is under regular cultivation.

4.In these circumstances, this Court is of the view that there was an attempt by the respondent to mislead this Court by producing false photographs. The petitioner who has obtained an order from the civil Court has approached the police officials to get protection in terms of civil Court decree. It is not in dispute that the civil Court decree is binding and the person who has obtained a decree from Civil Court is entitled to seek police protection, when the person who suffered the Court decree of injunction is trying to interfere with the possession of petitioner or his right to enjoy the property. When the petitioner has given a complaint, the respondent has not acted in the manner they were expected to do. Instead they contested the contempt petition as if the petitioner has mislead this Court to get the order by projecting that the petitioner was not doing any regular cultivation or agricultural operation. The statement of the respondent by showing the photographs was to mislead this Court. This Court by over site believing the misleading photographs produced by the respondent has closed the contempt petition.



5. Considering the above said facts, this Sub Application to restore the contempt petition is allowed. The contempt petition is restored on file.

6. The respondent/contemnor shall take appropriate action against the persons who are interfering with the peaceful possession and enjoyment of the property by the petitioner in the manner they are expected to do. The petitioner is directed to co-operate with the police officials when they hold enquiry in connection with the disputed land. It is open to the respondent to seek the assistance of Taluk Surveyor and Tahsildar who may produce records and measure the property, for which the petitioner has obtained the decree from civil court as against the proper parties.

7. Moreover, it is also brought to the notice of this Court that the petitioner has already filed a petition to implead the proper parties against whom he has obtained an order of injunction from Civil Court. Post the main contempt petition after two weeks. Having regard to the specific allegations made in the petition, this Court directs the respondent to file a counter accordingly.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

TO
BALAGURU,
THE INSPECTOR OF POLICE, ANDIPATTI POLICE STATION,
ANDIPATTI, THENI DISTRICT.

COPY TO
THE SECTION OFFICER,
CONTEMPT SECTION,
MADRAS BENCH OF MADRAS HIGH COURT,
MADRAS
(TO POST THE MATTER IN MAIN CONTEMPT AFTER TWO WEEKS)

SUB A(MD) No.119 of 2019
IN
CONT P(MD) No.596 of 2018
ORDER DATE:01.07.2019

KM/ (22.07.2019) 3P 3C