



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CONT.P.(MD)No.1467 of 2021 IN

W.P.(MD)No.1094 of 2021

WEB COPY

S.Jayakumar

... Petitioner/ Petitioner

Vs.

Manohar, I.P.S.,
Superintendent of Police,
O/o.Superintendent of Police,
Virudhunagar District.

... Contemnor / Respondent

Prayer:Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for the willful disobedience of the order passed by this Court in W.P.(MD)No.1094 of 2021 dated 22.01.2021.

Prayer in WP(MD). 1094/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 2nd and 3rd respondents to implement the order of the 1st respondent in Na.ka.C.4/13859/2020 dt 16.12.2020 and consequently direct to 1st to 3rd respondents to provide police protection to the petitioner based on his representation dt 04.01.2021.

For Petitioner : Mr.C.M.Arumugam

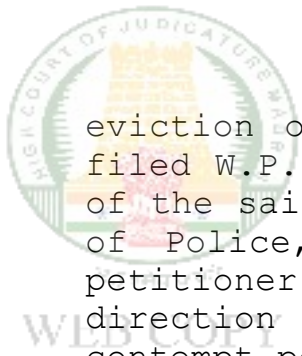
For Respondent : Mr.T.Senthil Kumar,

Additional Public Prosecutor.

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2. The petitioner herein is a senior citizen. The petitioner filed a petition under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against his son Thiru.J.Vijayselvam. The Tribunal by Order dated 12.06.2020 allowed the said petition and directed the petitioner's son to vacate the petition mentioned premises within one month. Aggrieved by the same, the petitioner's son filed an appeal before the District Collector under Section 16 of the Act. The appellate Tribunal / District Collector, Virudhunagar District vide Order dated 16.12.2020 dismissed the appeal. It is stated that till date the said order passed by the appellate Tribunal has not been challenged. But the petitioner's son did not comply with the



eviction order passed by the Tribunal. Therefore, the petitioner filed W.P.(MD)No.1094 of 2021 before this Court for implementation of the said order. Vide Order dated 22.01.2021, the Superintendent of Police, Virudhunagar District was directed to consider the petitioner's representation and pass orders. Contending the said direction given by this Court has not been complied with, this contempt petition came to be instituted.

3. When the matter was taken up for hearing, the learned Additional Public Prosecutor drew my attention to Rule 20(2)(ii) of Maintenance and Welfare of Parents and Senior Citizens Rules, 2009. It can be seen therefrom that it shall be the duty of the District Collector to oversee and monitor the work of Maintenance Tribunals and Maintenance Officers of the district with a view to ensuring timely and fair disposal of applications for maintenance and execution of Tribunals' orders. From this statutory provision, one can come to the safe conclusion that the Tribunal which passed the order on the petition filed by the senior citizen can act like an executing Court and it shall be the duty of the District Collector to oversee and monitor the execution of the said orders. When the petitioner filed W.P.(MD)No.1094 of 2021, he ought to have obtained a direction against the Maintenance Tribunal and the District Collector who functions as an appellate Tribunal. The Superintendent of Police can aid in the enforcement of the Tribunal's order, upon being specifically directed to so. He could not straightaway assume the authority to enforce the Tribunal's orders. Therefore, the respondent cannot be blamed for not acting in the matter. When the respondent does not have the jurisdiction, he cannot be expected to do anything in the matter. Therefore, the respondent is discharged from this contempt petition.

4. This contempt petition is closed. However, the petitioner is given liberty to move the Tribunal as well as the District Collector, Virudhunagar District for enforcement of the order dated 12.06.2020 passed by the Tribunal which was confirmed by the appellate Tribunal dated 16.12.2020. Upon filing an application for execution of the order, the same will be attended to and disposed of within a period of eight weeks, thereafter.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

<https://hcservices.ecourts.gov.in/hcservices/>

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: சென்னை

The Superintendent of Police,
O/o. Superintendent of Police,
Virudhunagar District.

+1 CC to M/s.C.M. ARUMUGAM, Advocate (SR-35840[F] dated 25/11/2021)

**CONT.P. (MD) No.1467 of 2021 IN
W.P. (MD) No.1094 of 2021
24.11.2021**

TSK (CO)
SB(22.12.2021) 3P 3C