

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Contempt Petition No.114 of 2022

P.Kaliyaperumal
S/o.Ponnusamy,
2/30, West Street,
Manigramam, Sirkali Taluk 609 114,
Nagapattinam District

.. Petitioner

Vs.

Shanmugam
Tahsildar,
Sirkali Taluk,
Nagapattinam District.

.. Respondent

Contempt Petition filed u/s.11 of the Contempt of Courts Act, praying to punish the respondent for wilful disobedience of the order of this Court dated 19.02.2021 passed in W.P.No.3562 of 2021.

For Petitioner : Mr.R.Saravana Kumar
For Respondent : Mr.S.J.Mohamed Sathik

ORDER

[Order of the Court was made by **P.N.PRAKASH, J**]

The petitioner filed W.P.No.3562 of 2021 alleging that there are encroachments by respondents 5 to 8 therein in S.Nos.313/1 and 313/2,

Manigramam Vilalge, Sirkali Taluk, Nagapattinam District and prayed for a mandamus to the authorities for the removal of the encroachments.

2. This Court issued the following directions on 19.02.2021 in W.P.No.3562 of 2021:

"4. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this Writ Petition, directs the 2nd respondent to act on the urgent Memo dated 20.03.2020 in Na.Ka.No.2379/2019/Oo4, sent by the office of the 1st respondent and after putting on notice, the petitioner and the respondents 5 to 8, shall cause survey and inspection in S.No.313/1 and 313/2, Manigramam Village, Sirkali Taluk, Nagapattinam District and if the result of the inspection reveals any encroachment or unauthorised construction, shall take immediate, necessary and appropriate action in accordance with law, by also adhering to the principles of natural justice and complete the said exercise within a period of ten weeks from the date of receipt of a copy of this order/ uploading of the order in the website and communicate the decision taken, to the petitioner and the respondents 5 to 8 and any other persons concerned."

Alleging non-compliance with the above, the present Contempt Petition has been filed.

3. Mr.Shanmugam, Tahsildar, Sirkali Taluk, has filed an affidavit dated 28.02.2022, wherein, he has stated as follows:

"3. I further state that due to prevalent of the COVID-19 second wave amidst situation, I have sent Memo dated 15.06.2021 to the Taluk Deputy Surveyor to conduct the Field inspection on the properties in S.F.No.331/1 and 313/2 as per the order of this Court. I submit that again on 10.08.2021 second memo have been send to the Taluk Deputy Surveyor to conduct the inspection on the encroachment on above mentioned properties in S.F.No.331/1 and S.F.No.313/2.

4. I respectfully submit that in lieu of inspection conducted Inspection report dated 17.08.2021 has been filed by the Deputy Surveyor, Revenue Inspector, Village Administrative Officer for my action. I further state that on inspection report it is revealed that the following persons namely Rajkumar son of Jambulingam, Malliga Wife of Vaithiyalingam, Samar Begum Wife of Iqbal has encroached Government Poramboke property in S.F.No.313/2 of Manigram Village. I submit that following persons namely Baskaran son of Kaliyaperumal, Sathyamoorthy son of Jambulingam, Suthandirarani has encroached the property in Government Poramboke property in S.F.No.313/1 of Manigram Village.

5. I further state that as per the inspection report I have send statutory notice dated 15.09.2021 as per the Section 7 of the Tamil Nadu Encroachment Act, 1905 to the encroachers in the above property even though to the present petitioner. I further state that as per Section 6 of the Tamil Nadu Encroachment Act Eviction notice dated 21.10.2021 has been sent by me to the encroachers.

6. I respectfully submit that meanwhile one Thiru Baskaran son of Kaliyapermal encroacher in S.F.No.313/1 has filed the Writ Petition bearing W.P.No.25529 of 2021 before this Hon'ble Court challenging the correctness of my statutory proceedings. I further state that this Divisional Bench of this Hon'ble Court through its order dated 03.12.2021 disposed the said writ petition to file statutory appeal before the Collector. The relevant portion of direction in 5th paragraph of the order is below:

"5. In the light of the above fact and the submissions of the learned counsel appearing on either side, we direct the petitioner to file an appeal against the order passed by the third respondent dated 29.10.2021 before the first respondent within a period of three weeks from the date of receipt of a copy of this order. If the appeal is filed in time, the first respondent shall entertain and dispose of the same on merits and in accordance with law, after providing ample opportunity to the petitioner. Till then, no coercive steps shall be taken against the petitioner."

7. I respectfully submit that as per the decision of this Hon'ble Court I have complied the order of this Hon'ble Court by directing the Field Inspection and issuing the Statutory Notice under Section 6 and Section 7 of Tamil Nadu Encroachment Act, 1905 as per the due

process of law. I further state as per the decision of Division bench of this Hon'ble Court in W.P.No.25529 of 2021 the subject matter is left on the venue of the District Collector."

4. Thus, from a reading of the above, the authorities have identified the encroachers and have initiated eviction proceedings against them in accordance with law.

In such view of the matter, nothing further survives in this contempt petition and the same is, accordingly, closed.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

gm

//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.

GS/31/05/2022

To

The Tahsildar,
Sirkali Taluk,
Nagapattinam District.