



Cont. P. No.1682 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

Contempt Petition No.1682 of 2021

Dr.K.R.Natarajan

... Petitioner

Versus

1. Tmt. G.Rajalakshmi
The Commissioner, Sembakkam Municipality,
Kamarajarpuram, Sembakkam,
Selaiyur P.O., Chennai 600 073.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.
3. The Director of Town Panchayats,
Directorate of Town Panchayats,
Kuralagam, Chennai 600 108.
4. The Assistant Director of Town Panchayats,
Kancheepuram Zone, District Collectorate,
Kancheepuram.
5. Mrs.Hemanmalini Kumaran

Impleaded as proposed respondents 2 to 5 as
per the order of the Court dated 22.04.2022
made in Sub Appln. No.160 of 2022 in Cont.P.No.1682 of 2021



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6. The Secretary,
Housing and Urban Development Department,
Secretariat, Fort St. George, Chennai 600 009.

.. Respondents

Suo motu Impleaded as 6th respondents as
per the order of the Hon'ble Court dated 10.10.2022
made in Cont.P.No.1682 of 2021

PRAYER: Petition filed under Sections 11 & 12 of the Contempt of Courts
Act, 1971, to punish the respondent for Contempt of Court for deliberate
disobedience of the order dated 5.2.2020 passed by this Court in Contempt
Petition No.1575 of 2017.

For Petitioner : Mr.B.K.Sreenivasan

For Respondents : Mr.P.Srinivas, for R1

Mr. Mr.Vadivelu Deenadayalan
Additional Government Pleader
for RR 2 to 4 and 6

Mr.M.R.Jothimanian
for Mr.K.Balu, for R5

ORDER

(Order of the Court was delivered by R.SUBRAMANIAN, J.)

Contempt Petition No.1575 of 2017 was filed seeking to punish
the respondent, namely MR.Rajendran, Commissioner of Sembakkam



Municipality for disobeying the orders passed by this Court in WP No.4398 of 2015. By order dated 08.11.2016, this Court had disposed of WP No.4398 of 2015 with the following direction:

“3. Respondent No.5 to take necessary steps to obtain the NOC from the Archaeological Department and submit to the Commissioner, Sembakkam Municipality for verification with an inspection at site and needful be done by respondent No.5 within a maximum period of two months of the receipt of the copy of this order, whereafter, if there is still some illegality, the Commissioner, Sembakkam Municipality will proceed in accordance with law.”

2. Complaining that no action had been taken, the Contempt Petition No.1575 of 2017 was filed. An application seeking approval of the building was pending before the respondent at that point of time, hence this Court passed the following order on 05.02.2020:

“3.Taking note of the aforesaid submission, we direct the respondent herein to take appropriate decision on



the application filed seeking approval for the building in question by also taking into consideration the No Objection Certificate issued by the Archaeological Survey of India within a period of six weeks from the date of receipt of a copy of this order.

4.If no permission is granted, the respondent shall take appropriate consequential action thereafter. If permission is granted, then liberty is given to the petitioner to challenge the same in the manner known to law. "

3. It is the contention of the petitioner that this order has also not been implemented. Mr.P.Srinivas, learned counsel appearing for the first respondent would submit that this being an area which falls within the regulated distance of a protected monument, permission of the Archaeological Survey of India is required. It is also seen that the Archaeological Survey of India had in fact granted permission on 04.06.2015.

4. Though the fifth respondent has put up construction on the



basis of the permission granted by ASI on 04.06.2015, it was done without the permission of the Local Planning Authority. Subsequently, the petitioner filed an Application for regularization with the Local Planning Authority and since the same was rejected by the Municipality, the fifth respondent approached the Government under Section 79 of the Town and Country Planning Act. The Secretary to Government directed removal of other minor deviations, while permitting the fifth respondent to approach the Planning Authority, viz. The Tambaram Municipal Corporation under the Tamil Nadu Combined Development and Building Rules, 2019.

5. Based upon the Government order dated 24.01.2022, the fifth respondent approached the Tambaram Municipality which is the Planning Authority for sanction of Building Plan. The Municipality returned the application requiring a No Objection from the Archaeological Survey of India. Thereafter, the fifth respondent addressed the Archaeological Survey of India which, on 12.09.2022, informed the fifth respondent that the revaluation will not come within its purview, as the building had already been constructed based on the permission granted in the year 2015.



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6. It is for the Tambaram Municipality to now consider the application for planning permission and pass appropriate orders there on.

We make it clear that the Municipality shall proceed with the said task without insisting upon a fresh No Objection from the Archaeological Survey of India. If the Municipality finds that the existing building can be retained subject to the rules in force, it shall pass orders accordingly. The Contempt Petition is disposed of with the above lines.

(R.SUBRAMANIAN, J.) (K.KUMARESH BABU, J.)

25.11.2022

Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking order

jv



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and

K.KUMARESH BABU, J.

(jv)

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