



WEB COPY

Cont.P.No.1394 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Contempt Petition No.1394 of 2013

Rajambal,
15, Kattagpira Veedhi,
Tirukoilur,
Villupuram District

.. Petitioner

Vs.

1. Bala Murugan
Executive Officer
Tirukoilur Town Panchayat
Tirukoilur, Villupuram District.

2. Executive Officer
Arulmigu Ulaganatha Perumal Temple
Tirukoilur, Villupuram District.

3. T.Rangaraja Iyengar
Kariyadarshi
M/m Thiruvikrama Perumal Koil
No.59, Sannadhi Street
Thirukoilur.

.. Respondents

[R2 impleaded vide order dated 13.09.2013 &
R3 impleaded vide order dated 07.11.2013
in Sub.A.No.634 of 2013.]

Prayer : Petition filed under Section 11 of the Contempt of Courts Act, 1971
to punish the respondent for willful disobedience and violation of the order
dated 23.06.2011 in W.P.No.8938 of 2011.



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For the Petitioners : Mr.V.Raghavachari

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent 1

Ms.Bhargavi
for respondent 2

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The contempt petition has been filed in reference to paragraphs 3 and 4 of the order dated 23.06.2011, by which, the writ petition was dismissed.

2. The paragraphs aforesaid are quoted hereunder for ready reference:

"3. The learned Government Pleader, referring to the counter affidavit, has submitted that within four weeks the encroachment shall be removed. In the counter affidavit, inter alia, in paragraph 4, it is stated as follows:-

"4. The allegation in paragraphs 4 and 5 are not correct. The general allegations made in the affidavit in my respectful submission are not germane to the present writ petition. The allegation that the roads adjoining the temple had been encroached by private individuals and kutcha and pucca structures had been



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raised and town panchayat had taken no steps to arrest it and width of the road had been reduced considerably are not correct. The further allegation that the old union office known as Katta Gopura Veedhi, South Vanamalai Mada Veedhi, Perumal Naicken Street, North Street, over which public had once enjoyed free movement have been lost to the encroachers are not correct. As far as Katta Gopura Veedhi is concerned, already there is dispute between the Temple authority and traders or encroachers. Hence, we could not remove the encroachment. The temple authorities have to remove encroachment in Vadakku Vanamalai Mada Veedhi and South Vanamalai Veedhi. We are taking steps to remove remaining encroachment on the Government lands and it will be done within four weeks."

4. In view of the stand taken by the respondents in the counter affidavit, no further direction need be issued in this case. Hence, this writ petition stands dismissed. However, there will be no order as to costs."

4. In reference to the paragraph quoted above, the contempt petition was filed and is pending for the last nine years. A Coordinate Bench of this

Court passed an order on 13.09.2013 to implead the temple as a party

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respondent in the contempt for the first time, though it was not a party in the writ petition. The compliance has been sought based on the undertaking quoted in the order, without realising the fact that no direction was given by the Court in reference to the undertaking quoted in paragraph 3 of the order. Rather, the writ petition was dismissed with the observation that no further direction is required. Whereas, whatever undertaking was given, should have been reiterated to mean an order for compliance.

5. Taking into consideration the peculiar circumstances, even the impleadment of the temple as a party respondent cannot be taken to pass any order in the contempt having limited jurisdiction. We cannot open a debate on merit while adjudicating the contempt petition. The contempt petition has to be adjudicated to find out whether the compliance of the order is made or not and not to adjudicate the issue during the course of finding out of the compliance or non-compliance, in view of the judgment of the Apex Court in the case of ***J.S.Parihar v. Ganpat Duggar [(1996) 6 SCC 291]***.

6. In view of the above, we cannot pass an order to hold that there was a willful disobedience of the order when no direction has been issued by the Court. Thus, we are left with no option but to close the contempt petition. Accordingly, the contempt petition is closed. However, with liberty to the petitioner to take the cause afresh again and it may be from the stage



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it was existing in the year 2011. The closure of the contempt petition would not be taken to be adverse to the petitioner for the aforesaid. It is however necessary to observe that it is for the petitioner to decide whether the temple should be made as a party respondent to the writ petition or not, if it is taken afresh.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

kpl/drm

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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GS/30/05/2022

To

1. The Executive Officer
Tirukoilur Town Panchayat
Tirukoilur, Villupuram District.
2. The Executive Officer
Arulmigu Ulaganatha Perumal Temple
Tirukoilur, Villupuram District.