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Cont.P..No. 636 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2022

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

**CONT. P. No.636 of 2022 &
Sub. Appl. No.163 of 2022
in
W.P. No.10295 of 2021**

Mrs. P. Thavamani @ Seetha Paramasivam (deceased)
W/o. Late Pannai Paramasivam,
Mrs.. Latha
D/o. Late P. Thavamani @ Seetha Paramasivam (deceased)
No.3, 4th Main Road, Nehru Nagar
Adyar, Chennai 600 020 ... Petitioner

VS

1. Thiru. Anshul Mishra, I.A.S.
The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore
Chennai 600 008

2. M. Santhi ... Respondents

R2 impleaded as proposed second respondent as per
the Court Order dated 08.07.2022 made in Sub
Appln. No.292 of 2022.



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Prayer : Contempt Petition filed under Section 11 of the Contempt of Courts Act 1971, praying to punish the respondent herein for contempt for having disobeyed the order dated 04.08.2021 passed by the Hon'ble High Court Madras in W.P. No.10295/2021.

For Petitioner : Mr. V.B. Thirupathikumar
For R1 : Mr. P. Kumaresan
Additional Advocate General
Asst. by Mrs. Veena Suresh, Standing Counsel

ORDER

This Contempt Petition was filed on the ground that the order passed by this Court in W.P. No.10295 of 2021 was not complied with by the respondent.

2. When the matter came up for hearing on 01.07.2022, this Court passed the following Order:

Mr.P.K.Elandhiran, Senior Estate Officer (i/c), CMDA was present at the time of hearing.

2.The learned Additional Advocate General appearing on behalf of the CMDA submitted that there is a huge discrepancy between the copy of the application that was submitted by the petitioner along with the representation after



the orders were passed in the writ petition, when it was compared with the original application and the allotment order that was issued by the CMDA. The learned Additional Advocate General in order to substantiate his submissions placed before this Court the original files and also the documents that were submitted by the petitioner along with representation. On comparison of the same, it is seen that as per the original records, the application was submitted on 07.12.1987 and the signature as found in the application contains the name of Thavamani. The receipt dated 14.12.1987 issued by the MMDA (then) also reflects the name of Thavamani. Whereas, the copy of the application that was submitted along with the representation contains the date of the submission of the application as 11.06.1986 and the name has been mentioned as Thavamani Paramasivam. That apart, even in the particulars provided in the application, the original records shows that it was submitted in the name of P.Thavamani and the age was mentioned as 45 years and the name of the husband is mentioned as Sivaraman. Whereas, in the copy that was submitted by the petitioner along with the representation, the name has been mentioned as P.Thavamani Paramasivam and the age has been mentioned as 42 years and name of the husband has been mentioned as S.Paramasivam. It is also seen from the original file that the commodity that was



proposed to be traded was mentioned as “Fruits” and whereas, in the copy that was submitted along with the representation, it is mentioned as “Vegetables and Fruits” in one and the same shop. In the original file, all the particulars have been entered in Tamil Language and whereas, in the copy submitted along with the representation, it has been entered in english language. In the original file, the signature of the applicant is found in tamil and whereas, in the copy submitted along with representation, the signature is found in english. That apart, the details of the Demand Draft that was submitted along with the application also differs. As per the original file, the details of the Demand Draft is mentioned as DD.No.798974, dated 11.12.1987, for Rs.200/- and whereas, in the copy of the application submitted with the representation, it is mentioned as DD No.BR/SOC/0285743, dated 29.05.1986 and the amount is mentioned as Rs.500/-. There is also a difference in the name of the Bank which issued the Demand Draft.

3.Yet another discrepancy that was brought to the notice of this Court by the learned Additional Advocate General was the allotment order dated 11.01.1988. In the original file, it has been issued in the name of P.Thavamani and the initial deposit amount has been mentioned as Rs.17,608/-. Whereas, in the copy that was submitted by the petitioner along with the



representation, the allotment order stands in the name of Thavamani Paramasivam and the amount has been mentioned as Rs.1,33,701/-.

4.The learned Additional Advocate General after pointing out to all the above discrepancies submitted that there is a very serious doubt on the very genuineness of the documents that were submitted by the petitioner and it may require an enquiry by the police.

5.Mr.K.Mahendran, learned counsel for the intervenor submitted that the petitioner had sold the shop in favour of one K.A.Muthusamy in the year 1997 itself and all the original documents were also handed over. The learned counsel further submitted that from the year 1997 onwards, the said Muthusamy was running the shop and on his demise, the shop is being run by his daughter-in-law Shanthi. The learned counsel submitted that these vital facts have been concealed by the petitioner and the petitioner has approached this Court with unclean hands. The learned counsel sought for some time to produce all the relevant documents in order to substantiate the allegations made against the petitioner.

6.In reply, the learned counsel for the petitioner submitted that application was made for allotment of two shops and that the petitioner will be able to sufficiently explain the so-called discrepancies that were pointed out by the



learned Additional Advocate General. The learned counsel also sought for some time to take instructions on the submissions made on the side of the intervenor and clarify the same before this Court.

7. Post this contempt petition for hearing on 06.07.2022 at 2.15 p.m."

3. Pursuant to the above order, the learned counsel for the petitioner produced two sets of additional typed set of papers along with the original documents and requested this Court to peruse the same. The learned counsel for the intervenor also produced the original documents that is said to have been handed over to them by the petitioner.

4. This Court had the advantage of going through the original documents in the presence of *Mr.P.K.Elandhiran, Senior Estate Officer (i/c), CMDA.*

5. On carefully going through the original documents submitted by the learned counsel for the petitioner, it is seen that there are two applications given by the petitioner in Application No.1598 dated 6/12



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11.06.1986 and Application No.0173 dated 07.12.1987. The learned counsel for the petitioner submitted that insofar as Application No.1598 is concerned, this application was never acted upon since the entire advertisement was cancelled by CMDA and the money that was paid by the petitioner was also refunded to the petitioner. It was made clear that this application has nothing to do with the shop in question.

6. Insofar as Application No.0173 is concerned, the learned counsel for the petitioner submitted that this application pertains to a different shop for which an allotment order was also given to the petitioner and even this application does not pertain to the shop in question.

7. The learned Additional Advocate General appearing on behalf of the respondent brought to the notice of this Court the representation made by the petitioner after the orders were passed in the Writ Petition and also the legal notice dated 06.12.2021 issued on behalf of the petitioner. By pointing out to these two documents, the learned Additional Advocate General submitted that the application form that was submitted by the



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petitioner and the allotment order that was relied upon by the petitioner did not pertain to the shop in question and that is the reason why there was a discrepancy between the original record maintained by CMDA and the copy of the application and the allotment order that was sent by the petitioner along with the representation. Learned Additional Advocate General submitted that if the petitioner submits a wrong application along with the representation, the CMDA cannot be faulted for the non compliance of the order passed by this Court.

8. The learned counsel appearing on behalf of the intervenor, by placing reliance upon the original documents produced before this Court, submitted that the shop in question, namely, Shop No.T/A-69 is actually covered in Application No.0187, which was already handed over to the intervenor long back and this fact was concealed by the petitioner both during the pendency of the Writ Petition as well as while sending the representation to the CMDA, after the orders were passed in the Writ Petition.

9. In reply to the said submission, the learned counsel appearing for



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the petitioner brought to the notice of this Court paragraph No.7 of the affidavit filed in support of the Writ Petition and stated that the petitioner did not conceal any fact and the petitioner had, infact, explained as to how the original application went into the hands of the intervenor.

10. In the considered view of this Court, this Court while deciding this Contempt Petition, must only see if there is a willful disobedience of the orders passed by this Court and whether the respondent is liable for contumacious conduct. This Court, cannot go into the *inter se* dispute between the petitioner and the intervenor and that is beyond the scope of this Contempt Petition. The only reason why this Court dealt with the various documents that were produced before this Court is that there was an apparent discrepancy in the documents shown by the petitioner and the document that was available in the original file of CMDA. Therefore, this Court wanted to satisfy itself that the petitioner had not played any fraud before this Court and obtained the order. On going through the documents and after hearing the learned counsel for the petitioner, this Court does not find that the petitioner has played any fraud on the Court.



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11. In view of the above, this Court has to now see if there is willful disobedience on the part of the respondent. As above mentioned, directions were issued by this Court pertaining to Shop No. T/A-69 and the petitioner was directed to make his representation along with all the relevant documents and the CMDA was directed to scrutinise the same and take a decision within a time frame. While undertaking this exercise, the petitioner, for reasons best known to her, had sent the details of Application No.0173, which has nothing to do with the shop in question. Admittedly, the petitioner has not sent the details of Application No.0187 and this application did not accompany the representation made by the petitioner before CMDA. Since the CMDA was not able to trace the shop number in the application that was given by the petitioner, namely in Application No.0173, they pointed out to this Court that there is a discrepancy in the application that was given by the petitioner. This is the reason why the CMDA was not able to process the representation that was made by the petitioner after the orders were passed in the Writ Petition.

12. Accordingly, this Court does not find any willful disobedience of



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the orders passed by this Court. The petitioner having committed a mistake, cannot be allowed to turn around and question the CMDA for her mistake.

13. As a result of the above discussion, this Court does not find any ground to hold that the respondent had committed any contempt. If at all the petitioner has any right over the shop in question, she is permitted to make a fresh representation along with all the relevant documents and it is left open to CMDA to scrutinise the same and to take a decision as directed by this Court in the Writ Petition.

14. This Contempt Petition is disposed of accordingly. Consequently connected Sub Application is also closed.

08.07.2022

Internet : Yes / No

Index: Yes / No

Speaking order / Non speaking order

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N. ANAND VENKATESH, J.

11/12



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To

Thiru. Anshul Mishra, I.A.S.
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No.1, Gandhi Irwin Road, Egmore
Chennai 600 008

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