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Cont.P. No.719 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.03.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **A.A.NAKKIRAN**

Cont.P. No.719 of 2021
in
W.M.P.No.7886 of 2021
in
W.P.No.7376 of 2021

1.M.Kuppusamy
2.K.Srinivasan
Both are residing at
No.37/A-1-2-3,
Arutperum Selvi Street,
Kancheepuram 631 502

.. Petitioners/ Petitioners/ Petitioners

Vs.

A.Aruljothi,
Old Door No.38,
New Door No.111,
Arutperum Selvi Street,
Kancheepuram 631 502

... Respondent/9th Respondent/9th Respondent

Petition filed under Section 11 of Contempt of Courts Act, 1973 to
summon the respondent and punish the respondent for wilful and deliberate
violation of the order dated 22.03.2021 made in WMP No.7886 of 2021 in
W.P.No.7376 of 2021.

For Petitioners : Mr.C.D.Sugumar

For Respondent : Mr.D.R.Arun Kumar
Mr.P.Srinivas
for Kancheepuram Corporation



ORDER

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

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Alleging that Aruljothi, the respondent herein was putting up a construction in old Door No.38, New No.111, Arutperum Selvi Street, Kancheepuram, without obtaining planning permit and other clearances from the statutory authorities, the petitioners filed W.P. No.7376 of 2021 and in W.M.P. No.7886 of 2021, prayed for an interim order of injunction. A Division Bench of this Court passed the following order on 22.03.2021:

“5. The learned counsel for the petitioners has drawn the attention of this Court to the typed set of documents and would submit that the 9th respondent, challenging the proceedings of the Archaeological Survey of India, filed WP.No.5616/2014 and it came to be dismissed and challenging the same, he filed WA.No.636/2014 and it was admitted on 07.05.2014 and pending disposal of the writ appeal, prayed for an order of ad-interim injunction, restraining the respondents, their subordinates, from demolishing and from interfering with the peaceful possession and enjoyment of his house property bearing Door No.111/38 comprised in S.Nos.927 and 928, Arutperumselvi Street, Kancheepuram, in pursuant to the proceedings of the 2nd respondent therein, dated 17.12.2013 and interim injunction has been granted and the said order would not confer any right upon the 9th respondent to put up an additional construction without any planning permission and therefore, prays for interim orders.



6. Since it has been brought to the knowledge of this Court as to the pendency of the writ appeal in WA.No.636/2014, this Court has also summoned the English Bundle [EB] relating to the said case and verified the typed set of documents. 7. A perusal of the Reply dated 13.02.2021 sent by the 9th respondent herein to the 3rd respondent would disclose that his application for planning permission came to be returned on 18.09.2010 and she intend to apply for revised plan for getting approval of the existing building, though it prima facie appears that not only the existing construction is unauthorised, but also the additional construction being put up by the 9th respondent, as evidenced from the photographs made available from pages No.66 to 69 of the typed set of documents.

8. Therefore, this Court is of the considered view that a prima facie case has been made out for grant of interim orders ; otherwise the 9th respondent may proceed further with the construction and in that event, not only the petitioners, but also the official respondents, viz., respondents 3 and 4, would also be put to hardship and difficulties and the balance of convenience, as on date, lies in favour of the petitioners.

9. Hence, there shall be an order of adinterim injunction as prayed for till 22.04.2021.

10. The 5th respondent, upon putting the 9th respondent on notice, shall cause inspection of the existing construction as well as the alleged ongoing construction in old Door No.38, New No.III, Arutperumselvi Street, Kanchipuram 631501 and file a Status Report with supporting documents and



photographs, as to the authorised/deviated/unauthorised construction.

11.The Registry, after obtaining appropriate orders, is to list WA.No.636/2014 along with this writ petition and call on 22.04.2021.”

2. Alleging that Aruljothi has violated the aforesaid order of injunction, the petitioner has filed the present contempt petition.

3. Today, when the matter was taken up for hearing, Aruljothi is present with his counsel Mr.D.R.Arun Kumar. He has filed affidavit dated 28.02.2022 wherein he has stated as follows:

2.I humbly submit that the above contempt petition arises out of the alleged violation of the order of this Honourable Court dated 22.03.2021 made in W.M.P.No.7886 of 2021 in W.P.No.7376 of 2021 against me granting ad-interim injunction restraining me from putting up any further constructions in the subject matter property till 22.04.2021.

3.I humbly submit that immediately after the knowledge of the above said interim order of this Hon'ble Court, I have stopped all the construction activities which was almost in the finishing stage. I further submit that as I have resided at the backyard of the subject matter house along with my wife, two sons and sister, we faced various difficulties and hence we have decided to move to our unfinished house during the pendency of the writ petition.

4.I humbly submit that few days before we move into our



WEB COPY

Cont.P. No.719 of 2021

new house, we have only cleared debris in and around the construction site and no construction work was made by us. I submit that the Municipal Commissioner of Kancheepuram had inspected the subject matter house and filed a report with regard to the status of the building in compliance of the very same interim order. Even now the status of the building is the same as that of the report submitted to this Hon'ble Court during the pendency of the writ petition. I submit that we are residing in the said house even without properly built overhead tank, gate, compound wall, domestic electricity connection etc. only in compliance of the interim order granted against me.

4. Learned counsel for the petitioners brought to our notice that final orders have been passed in W.P. No.7376 of 2021 on 04.08.2021 directing the authorities to remove the illegal and unauthorised constructions put up by Aruljothi and the operative portion of the order reads as under:

7. A perusal of the status report clearly shows that in the ground floor, unauthorised construction has been found to an extent of 1889 sq.ft put up in the year 2010 by the 9th respondent. Subsequently, in the year 2020 & 2021, when the first floor was put up, again the 9th respondent has continued to raise the unauthorised illegal construction to an extent of 1189 sq.ft. Besides, an extent of 100 sq.ft has been illegally constructed between the staircase and headroom area. This has been noticed by the inspecting authority. Moreover, the 5th respondent has also stated that the entire building is



constructed without planning permit from the 5th respondent herein and again without obtaining the no objection certificate from the Superintendent/Conservator, Archaeological Survey of India, the 3rd respondent herein, the said deviated construction has been put up by the 9th respondent. Therefore, placing on record the status report filed by the 5th respondent, the District Collector, Kancheepuram District, the 2nd respondent herein and other competent authorities are directed to proceed further for taking appropriate action against the 9th respondent for removal of the illegal unauthorised construction in the building in question, in accordance with law. With this direction, the writ petition is ordered accordingly. Consequently, W.M.P.No.7886 of 2021 is closed. No costs.

5. Now that the final orders have been passed as aforesaid, we are not passing any further orders in this contempt petition. Hence the contempt petition stands closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

mmi

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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