

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **30.03.2022**

CORAM :

THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**

Contempt Petition No.921 of 2021

1.P.Radhakrishnan

2.R.Jayanthi

3.P.Gunasekaran

...Petitioners

All are residing at

No.15/2, Thirumnajana Veethi,

Vashistapuram,

Thittakudi, Cuddalore District

-Vs-

1.Ranjith Singh,

District Revenue Officer,

Cuddalore,

Cuddalore District.

2.Amith Kumar,

Revenue Divisional Officer,

Virudhachalam,

Cuddalore District.

3.P.Dinusha,

Executive Officer,

Arulmigu Vaidyanatha Swamy Thirukovil,

Thittakudi,

Cuddalore District.

4.Ashok Kumar,

Joint Commissioner,

Hindu Religious and Charitable Endowment Board,

Viluppuram District.

Now office at Cuddalore.

...Respondents

Prayer : Contempt Petition under Section 11 of the Contempt of Courts Act, 1970, to punish the respondents 1 to 4 for the disobedience of the orders of this Court as Contempt of Court and for the violation of the orders of this Court vide W.P.No.27864 of 2012 dated 30.06.2021.

For Petitioners	: Mr.Vijay Narayan Senior Counsel for M/s.S.Udaya Kumar, S.A.Udayakumari
For R1 & 2	: Mr.S.Ravichandran Additional Government Pleader
For R4	: Mr.N.R.R.Arun Natarajan Special Government Pleader
For R3	: Mr.K.V.Dhanapalan Standing Counsel

ORDER

This Contempt Petition has been filed for the alleged disobedience of the order passed by this Court dated 30.06.2021 made in W.P.No.27864 of 2012.

2. In the said order, this Court has passed the following direction :

“15. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

16. There is no much dispute with regard to the factors that has been narrated in the aforesaid paragraphs. All these factors have been taken out or culled out from various proceedings that are filed before this Court for perusal.

17. As of now, it is an admitted fact that, the petitioners

or their predecessors have been in continuous possession and enjoyment of the property in question for several decades. If the possessory rights are traced from 1925 or 1932, it closely comes near about 8 to 9 decades.

18. Be that as it may, one round of litigation up to Second Appeal was over in the year 1967. As has been rightly pointed out by the learned counsel for the Government, this Court has observed in the said order dated 20.07.1967 that, the stand of the Panchayat Union before this Court was that, the suit property forms part of Thirukkulam poramboke.

19. If it is a Thirukkulam poramboke, from 1925 whether the Thirukkulam poramboke had been given for any possessory rights to any of the predecessors of the petitioners and in that case, all these decades, whether the land in question, even though initially claimed to be the Thirukkulam poramboke, has been continuously in that status or the said status has been changed by the Revenue Authorities at any point of time can be gone into only by the Civil Court after appreciating the evidences in this regard.

20. However, the fact remains that, the petitioners are in possession and enjoyment of the property for several decades and wherein, after the resolution passed by the Panchayat Union concerned, subsequently, the petitioners seem to have obtained planning permission from the concerned authorities and constructed the building. Therefore, at this juncture, without getting a finality in Civil Suit in O.S. No. 155 of 2012, no coercive or persuasive action

can be taken either by the Revenue Authorities, i.e., Government or by the Temple Authorities. The reason being that, in the Suit in O.S.No.155 of 2012 filed by the petitioners, both the Government represented by the District Collector concerned as well as the Temple Authorities have been arrayed as parties. Therefore, in the Suit, both the Government as well as the Temple Authorities can let in their evidences in support of their cases with regard to the property in question and ultimately, it is for the Civil Court, i.e., Court, where, the said Suit is pending, to take a decision and to give a judgment and decree.

21. Once the judgment and decree is passed in the suit filed by the petitioners, as rightly observed by the first respondent in paragraph No.7 of the impugned order, the final decision can be taken as to the nature of the land and further action can be taken against the petitioners if any need arise in future.

22. However, at this juncture, till a final decision comes from the Civil Court as referred to above, no further coercive or persuasive action can be taken either by the Revenue Authorities or by the Temple Authorities and therefore, this Court feels that, a direction can be given at this stage to the respondents not to take any coercive action or persuasive action or follow up action pursuant to the impugned proceedings issued by the first and second respondents till a final decision is taken in the Suit in O.S. No. 155 of 2012 filed by the petitioners pending before the Sub-

Court, Virudhachalam.

23. Accordingly, there shall be a direction to the respondents not to take any coercive or persuasive or follow up action pursuant to the impugned orders of respondents 1 and 2 till a judgment and decree is passed by the Civil Court in O.S.No.155 of 2012 on the file of the Sub Court, Virudhachalam.

24. It is made clear that, once the Sub-Court takes a view and passes judgment and decree, it is natural that, both the parties would abide by the said decision to be made by the Civil Court. Accordingly, the remedies available for both parties can be worked out in the manner known to law.

25. With these observations and directions, these Writ Petitions are disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.”

3. The said order though was passed on 30.06.2021, the copy of the order was uploaded on 12.07.2021 and the certified copy was made ready on 13.07.2021.

4. In this context, it is the case of the petitioners in this contempt petition, who are the petitioners in the writ petition also, as projected by Mr.Vijay Narayan, learned Senior Counsel appearing for the petitioners that, after order was pronounced on 30.06.2021, the learned Special Government Pleader, who appeared for the respondent-Temple made a

mention that in order to complete the Civil Suit, which was pending before the concerned Civil Court, as directed by this Court, a time bound direction can be given within which, the Civil Court before which, the Civil Suit was pending, can dispose the suit.

5. However, that time frame was not given, therefore, according to the learned Senior Counsel, the learned counsel appearing for the temple before the writ court had a knowledge about the order dated 30.06.2021, therefore, he would have revealed to the respondents especially the 3rd and 4th respondents, who are the temple authorities that, pursuant to the order dated 30.06.2021, no demolition work should be undertaken till the decision is to be taken by the Civil Court in the pending Civil Suit.

6. The learned Senior Counsel appearing for the petitioners would also point out that, despite these factors, on 11.07.2021, they started demolition and they completed the demolition on 12th July, 2021, despite the best efforts taken on behalf of the petitioners that the orders have already been passed by this Court on 30.06.2021.

7. Only in this context, the present contempt petition has been filed for the alleged willful disobedience of the orders or violation of the orders of this Court dated 30.06.2021.

8. However, Mr.K.V.Dhanapalan, learned Standing Counsel

appearing for the 3rd respondent as well as Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for the 4th respondent, would contend that, first of all against the order dated 30.06.2021, an intra-court appeal was filed by the HR & CE Department in W.A.No.631 of 2022, where a Division Bench of this Court by order dated 23.03.2022 has set aside the order passed by this Court by allowing the writ appeal. Therefore, the order of the writ court dated 30.06.2021 is no more available.

9. The Special Government Pleader would further contended that, the construction put up by the petitioners and others were in the midst of a temple tank or nearby the bank of the temple tank and insofar as the Civil suit in the earlier round of litigation, which were succeeded by the petitioners or their predecessor in title from whom the petitioners claimed to have obtained the title by transferring the property for valid consideration are concerned, those decisions of the Civil Court would not bind the HR & CE Department because the stand taken before the Civil Court in that round of litigation was that the land does not belongs to Panchayat Union or Panchayat, therefore, based on which, decree was passed up to the Second Appeal, which was disposed by this Court, where the stand of the HR & CE Department never been asked and HR & CE never gave up the stand that the land belongs to the Temple Authorities.

10. When that being so, those Civil Court decree confirmed by this Court would not bind HR & CE Department.

11. Moreover, after obtaining permission from the District Collector to undertake the demolition against the encroachment, the work was commenced on 11.07.2021 and by the time on 12.07.2021 at 06.00 p.m. the copy of the order dated 30.06.2021 was brought to the knowledge of the HR & CE officials, the demolition work was completed almost. However, with regard to the remaining demolition is concerned, they claimed that they stopped the work by 6.00 p.m on 12.07.2021. Therefore, citing these reasons, learned Special Government Pleader would contend that there was no willful disobedience of the orders of this Court on the part of the respondent.

12. That apart, the learned Special Government Pleader would also contend that, already atleast two public interest litigations have been filed wherein, in one such writ petition filed by one T.Mayavel in W.P.No.6533 of 2021, already there was a direction under which the HR & CE officials and Revenue officials were directed to remove all encroachment especially the encroachment at the temple property and temple land. Therefore, in order to comply with the order passed in the said writ petition and connected writ petitions, it had become the duty on the part of the

respondents herein to complete the demolition work and to report before this Court.

13. When that being the position, it cannot be stated that the action initiated by the respondents in demolishing the structures, which according to the respondent were put up in the temple land, on 10.11.2021, 11.11.2021 and 12.11.2021 was against the orders of this Court. Instead it is pursuant to the earlier orders passed by this Court in the public interest litigations referred to above and in the meanwhile, since the order dated 30.06.2021 has been brought to the knowledge of the respondents only at about 06.00 p.m. on 12.07.2021, the moment they received the order, they claimed to have dropped the demolition work.

14. It is further claimed by the learned Standing Counsel and the Special Government Pleader for respondents that, only after the order passed in the Writ Appeal referred to above by the First Bench of this Court dated 23.03.2022, the remaining portion of the demolition was completed and in fact it was completed only yesterday. Therefore, at no stretch of time or at any circumstances, the order dated 30.06.2021 has been violated

15. Therefore, the learned counsel appearing for the respondents would seeks indulgence of this Court to close this contempt petition.

16. I have considered the said submissions made by the learned

Senior Counsel appearing for the petitioners as well as the learned Special Government Pleader and Standing Counsel appearing for the respondents.

17. Having perused the counter affidavit filed in this regard by the respondents and after having taken note of the judgment of the Division Bench dated 23.03.2022 in W.A.No.631 of 2022, where the order passed by this Court dated 30.06.2021, from where the present Contempt Petition has arisen, since has been set aside, I am of the view that, this case cannot be treated as a willful disobedience on the part of the respondents for the purpose of initiating any contempt proceedings against the respondents within the meaning of the provisions of the Contempt of Courts Act.

18. As such this Contempt Petition deserves to be closed. Accordingly, this Contempt Petition is closed. No costs.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

sp/mp

//Certified to be true copy//

Dated at Madras this 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/14/06/2022

To

- 1.The District Revenue Officer,
Cuddalore,
Cuddalore District.
- 2.The Revenue Divisional Officer,
Virudhachalam,
Cuddalore District.
- 3.The Executive Officer,
Arulmigu Vaidyanatha Swamy Thirukovil,
Thittakudi,
Cuddalore District.
- 4.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Viluppuram District.
Now office at Cuddalore.