



Cont.A.Nos.5 & 6 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

Contempt Appeal Nos.5 & 6 of 2022
and
C.M.P.Nos.12979 & 13504 of 2022

Cont.A.No.5 of 2022:

Mr.J.Kumaragurubaran,
Commissioner,
H.R. & C.E.,
No.110, Uthamar Gandhi Road,
Chennai 600034.

..... Appellant

-Versus-

1.Mr.B.Sukumar

2.Mr.P.P.Sathyaraj,
Executive Officer,
Son of Periasamy,
Admin. Office: Arulmigu Sökkavel Subramaniya Thirukoil,
Angala Parameshwari Kasi Vishwanathar Thirukoil,
No.5, South Mada Street,
Choolai, Chennai 600007.

..... Respondents



Cont.A.Nos.5 & 6 of 2022

Appeal filed under Section 19(1)(a) of The Contempt of Courts Act, 1971, praying to set aside the order of this Court dated 18.07.2022 made in Cont.P. No.731 of 2022.

Cont.A.No.6 of 2022:

1.Mr.N.Dhanapal,
Joint Commissioner, Chennai Region I,
H.R. & C.E.,
Yadhaval Street,
Padi, Chennai 600060.

2.Mr.M.Bhaskaran,
Assistant Commissioner,
H.R. & C.E.,
Yadhaval Street,
Padi, Chennai 600060.

.....Appellants / Third parties

-Versus-

1.B.Sugumar

2.Mr.J.Kumaragurubaran,
Commissioner,
H.R. & C.E.,
No.110, Uthamar Gandhi Road,
Chennai 600034.

..... Respondents

Appeal filed under Section 19(1)(a) of The Contempt of Courts Act, 1971, praying to set aside the order of the learned single Judge of this Court dated 18.07.2022 made in Cont.P.No.731 of 2022.



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Cont.A.Nos.5 & 6 of 2022

For Appellant (s) : Mr.J.Ravindran, Additional Advocate General Assisted by Mr.N.R.R.Arun Natarajan, Addl. Government Pleader for Appellant in Cont.A.No.5 of 2022 and 2nd respondent in Cont.A.No.6 of 2022 and Appellants in Cont.A.No.6 of 2022

For Respondent (s) : Mr.S.Natarajan for 1st respondent in both Cont.A.Nos.5 & 6 of 2022

COMMON ORDER

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

Challenging the order dated 18.07.2022 passed by a learned single Judge of this Court imposing a cost of Rs.1,00,000/- (Rupees One Lakh only) upon the Commissioner, Hindu Religious and Charitable Endowments Department; and Rs.50,000/- each (Rupees Fifty Thousand only) upon the Assistant Commissioner and Joint Commissioner, Hindu Religious and Charitable Endowments Department, Yadhaval Street, Padi, Chennai 600060, the present Contempt Appeals have been filed before this court.



Cont.A.Nos.5 & 6 of 2022

2. For the sake of convenience the parties would be referred to by their respective names and by their official designations wherever required.

3. The minimum facts that are required for deciding these Contempt Appeals are as under:-

(i) One B.Sugumar claiming to be an erstwhile Trustee of Arulmigu Sökkavel Subramaniya Thirukoil (for brevity “**Sökkavel Temple**”) gave a representation dated 28.09.2020 to the Executive Officer of the Sökkavel Temple alleging that one Yasodha, A.Arunachalam, A.Velayudham and A.Murugesan. who were the tenants under the Sökkavel Temple had defaulted in payment of rents and hence, they should have to be evicted. Since no action was taken by the authorities, Sugumar filed a writ petition in W.P.No.20099 of 2020 for a direction to the Commissioner, HR & CE and the Executive Officer, Sökkavel Temple, to consider his representation and take action in accordance with law.

(ii) It appears that during the pendency of the said writ petition, Velayudham died and in his place, one P.V.Nithyanandam was substituted.

(iii) In W.P.No.20099 of 2020, by order dated 21.06.2021, the learned



Cont.A.Nos.5 & 6 of 2022

single Judge of this Court issued the following directions:-

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“7. In the light of the allowance of the substitution petition in WMP No.13756 of 2021, the Executive Officer of the temple in question shall issue Section 78 notice afresh to the legal heirs of R5 and proceedings conducted in accordance with law.

8. The Executive Officer will specifically examine whether all lessees, including the legal heirs of R5, have any privity of contract qua themselves and temple authorities and whether the arrangement is in accordance with the provisions of Section 34 of the Act and a finding should be given in this regard in the order to be passed under Section 78 of the Act.

9. With the aforesaid direction, nothing further survives in this Writ Petition, as the mandamus sought for stands achieved. The Writ Petition stands closed. No costs.

10. List on 21.09.2021 for reporting compliance.”

(iv) Alleging that the Commissioner, HR & CE Department and the Executive Officer of Sokkavel Temple have not obeyed the order dated



Cont.A.Nos.5 & 6 of 2022

21.06.2021, Sugumar filed a contempt petition in Cont.P.No.731 of 2022.

On notice, one M.Baskaran, Assistant Commissioner, filed a status report dated 18.07.2022 stating the reasons for the delay in complying with the order of this court dated 21.06.2021 in W.P.No.20099 of 2020. However, the learned single Judge of this Court was not satisfied with the said report and, therefore, by the impugned order dated 18.07.2022 has imposed costs on them with the following observations:-

“3. Even according to the report, the Assistant Commissioner has effectively commenced functioning from April 2021, but there is nothing to explain the delay in complying with the directions of the Court till date. That apart, the officer does not even express any regret and is brazen about the non-compliance. Hence, and as contempt of the directions at paragraph 6 of order dated 21.06.2021 is apparent, as is the casual and unacceptable attitude of the respondents, I think it fit to impose costs as follows:

(i) of a sum of Rs.1,00,000/- (Rupees One Lakh only) upon the Commissioner, Hindu Religious and Charitable Endowments



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Cont.A.Nos.5 & 6 of 2022

Department,

(ii) Rs.50,000/- each upon the Assistant and Joint Commissioners concerned, both payable to the Cancer Institute, Adyar, Chennai – 600 020 within a period of two weeks from today. This contempt petition is allowed, with costs.”

(v) Aggrieved by the aforementioned order, two separate Contempt Appeals have been filed namely, Cont.A.No.5 of 2022 by Mr.J.Kumaragurubaran, Commissioner, HR & CE Department and Cont.A.No.6 of 2022 by Mr.N.Dhanapal, Joint Commissioner, Chennai Region I, HR & CE and Mr.M.Bhaskaran, Assistant Commissioner, HR & CE.

4. Heard Mr.J.Ravindran, learned Additional Advocate General on behalf of Mr.Arun Natarajan, learned Additional Government Pleader on record for the Appellants in Cont.A.Nos.5 & 6 of 2022 and the 2nd respondent in Cont.A.No.6 of 2022 and Mr.S.Natarajan, the learned counsel for the 1st respondent in both the Cont.A.Nos.5 & 6 of 2022.



Cont.A.Nos.5 & 6 of 2022

5. At the outset, Mr.J.Ravindran, learned Additional Advocate General stated that in the status report dated 18.07.2022, Mr.M.Bhaskaran, Assistant Commissioner, HR & CE should have unconditionally apologised to the court and only thereafter, he should have given the reasons for not being able to comply with the order of this court dated 21.06.2021 made in W.P.No.20099 of 2020. He further contended that the Joint Commissioner, Chennai Region-I, HR & CE has now complied with the order dated 21.06.2022 in letter and spirit by conducting an enquiry under Section 78 of the HR & CE Act and also passing final orders on 08.08.2022 and 18.08.2022 against all the five tenants directing them to vacate the shops and also pay arrears of rent. He also placed before us individual affidavits dated 30.07.2022 sworn to by Mr.J.Kumaragurubaran, Commissioner, HR & CE; Mr.N.Dhanapal, Joint Commissioner, Chennai Region I, HR & CE; and Mr.M.Bhaskaran, Assistant Commissioner, HR & CE wherein they have unconditionally apologised for not being able to comply with the order under contempt dated 21.06.2021, in time.



Cont.A.Nos.5 & 6 of 2022

6. We accept the apology tendered by the above officials and taking into consideration the fact that the order of this court dated 21.06.2021 made in W.P.No.20099 of 2020 has now been complied with, the cost imposed by the learned single Judge of this Court in Contempt Petition No.731 of 2022 on 18.07.2022 is set aside and the cost, if any, already deposited into this court by the appellants shall be refunded to them as per rules.

In the result, both the Contempt Appeals are allowed as indicated above. Consequently, connected CMPs are closed.

[(P.N.P., J.] [TKR., J.]
17..10..2022

Index: Yes/No
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Cont.A.Nos.5 & 6 of 2022

To
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- 1.The Commissioner, H.R. & C.E., No.110, Uthamar Gandhi Road, Chennai 600034.
- 2.The Joint Commissioner, Chennai Region I, H.R. & C.E., Yadhaval Street, Padi, Chennai 600060.
- 3.The Assistant Commissioner, H.R. & C.E., Yadhaval Street, Padi, Chennai 600060.
- 4.The Executive Officer, Arulmigu Sakkavel Subramaniya Thirukoil, Angala Parameshwari Kasi Vishwanathar Thirukoil, No.5, South Mada Street, Choolai, Chennai 600007.



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Cont.A.Nos.5 & 6 of 2022

P.N.PRAKASH.J.,
AND
RMT.TEEKAA RAMAN.J.,

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Cont.A.Nos.5 & 6 of 2022
with CMPs

17..10..2022