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Contempt Petition No.1590 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.03.2022

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE A.A.NAKKIRAN

Contempt Petition No.1590 of 2021

M.Deepak Goswami,
No.16, Ekambareswarar Koil Street,
Prak Town(Poonga Nagar),
Chennai 600 003

... Petitioner

Vs.

Eneyan
Executive Engineer
Greater Chennai Corporation
Zone VIII, Door No.368, 2nd Cross Street
Pulla Avenue, Shenoy Nagar
Chennai 600 030

... Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for having committed contempt of the order passed in W.P.No.7292 of 2021 dated 22.03.2021 on the file of this Court.

For Petitioner : Mr.K.G.Senthil Kumar
For Respondent : Mr.K.Raja Srinivas
Standing Counsel

ORDER

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

Alleging non-compliance of the order dated 22.03.2021 passed by this

<https://hcservices.ecourts.gov.in/hcservices/> Court in W.P.No.7292 of 2021, the writ petitioner has filed this contempt



petition.

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2. Heard Mr.K.G.Senthil Kumar, learned counsel for the petitioner and Mr.K.Raja Srinivas, learned Standing Counsel appearing for the respondent Corporation.

3. Today, the respondent viz., Mr.T.Enian, Executive Engineer, Zone-VIII, Greater Chennai Corporation, is present before this Court. He has also filed a counter affidavit dated 22.03.2022.

4. The short point that has to be decided in this contempt petition is, whether the respondent has violated the directions issued by this Court in paragraph 7 of the order dated 22.03.2021 in W.P.No.7292 of 2021. In order to decide that, it is necessary to extract paragraph 7 of the said order :

“7. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in the representations or in this writ petition, directs the 2nd respondent in WP.No.7292/2021 coordination with the jurisdictional Tahsildar, Aminjikarai, shall cause inspection of the land in S.No.23/1, Block No.2, Ward No.1, said to have been owned by the petitioner and if the result of the inspection reveals that the religious structure said to have been put up by the 3rd respondent in the form of temple, is an unauthorised /deviated one, shall put the 3rd respondent on notice and thereafter, shall take immediate, necessary and appropriate steps in accordance with law, by also adhering to the principles of natural justice and complete the said exercise within a period of ten weeks from the date of receipt of a copy of this order / uploading of the order in the website and communicate the decision taken, to the petitioner as well as to the 3rd respondent herein.”



5. Mr.Senthil Kumar contended that the 3rd respondent in the writ petition has built a temple in the land of the petitioner without proper planning permission.

6. It is seen that the respondent has sent a communication dated 21.09.2021 to the petitioner, wherein, it is stated that the land in question is a private land and if there is any encroachment in it, the same has to be removed only by the owner and the Greater Chennai Corporation cannot be called upon to remove the encroachment.

7. We find from the admitted facts that the land in question is a private property and therefore, any encroachment therein cannot be removed by the Greater Chennai Corporation. However, it is the grievance of Mr.Senthil Kumar that the temple is an unauthorised construction, even according to the respondent and therefore, it is only the respondent, who should take steps to demolish the unauthorised construction.

8. According to the respondent, the Greater Chennai Corporation has taken steps for removal of the unauthorised construction, aggrieved by which, the opposite party has filed an appeal to the Government under Section 80-A of the Town and Country Planning Act, 1971. The relevant paragraphs from the counter affidavit dated 22.03.2022 of the respondent is extracted below :



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by the officials of Greater Chennai Corporation along with the Thasildar, Aminjikarai Taluk, and the land in question at land in S.No.23/1, Block No.2, Ward No.1 was inspected in the presence of the petitioner herein and the 3rd respondent in the Writ Petition namely Mr.K.Shanmugam with the revenue records available with the Thasildar, Aminjikarai Taluk. Further at the time of inspection it was found that temple namely Sri Samayapuram Mariamman Alayam is in existence in the said land from 1975.

7. I submit that after inspecting the land in question the Thasildar, Aminjikarai Taluk has submitted his report dated 16.07.2021 *vide* Na.Ka.A2/00747/2021 stating that the land in question at S.No.23/1, Block No.2, Ward No.1 is classified as “Ryotwari Land” measuring 0.10.03.5 sq.m. and the land stands in the name of Goswami Krishna Chandraji.

8.

9. I submit that even though Mr.K.Kodiarasan the authorized representative of the temple namely Sri Samayapuram Mariamman Alayam have submitted the supporting documents no planning permission was enclosed in the said representation, hence a Notice Calling for Approved Plan dated 23.08.2021 under Sections 56 and 57 read with Section 85 of Tamil Nadu Town and Country Planning Act, 1971 was issued to the owner of the land *i.e.*, the petitioner herein and also to the authorized representative of the people namely Sri Samayapuram Mariamman Alayam.

10. I submit that as against the Notice Calling for Approved Plan the temple namely Sri Samayapuram Mariamman Alayam has filed an appeal dated 06.09.2021 under Section 80-A of Tamil Nadu Town and Country Planning Act, 1971. Further the said appeal is pending before the Secretary to Government, Housing and Urban Development Department.”

9. Mr.Senthil Kumar submitted that the temple has not been in existence since 1975 and he strongly disputes this stand taken by the



when the temple was built, as it is a disputed question of fact, which cannot be decided in this contempt petition.

In the light of the fact that the Greater Chennai Corporation have taken steps for removal of the unauthorised construction by issuing notices, nothing survives for adjudication in this contempt petition and accordingly, this contempt petition stands closed. It is always open to the petitioner to work out his remedies in the manner known to law for removal of encroachments as well for the demolition of the unauthorised construction in his land.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

gya

//Certified to be true copy//

Dated at Madras this the 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/25/05/2022

To

The Executive Engineer
Greater Chennai Corporation
Zone VIII
Door No.368, 2nd Cross Street
Pulla Avenue, Shenoy Nagar
Chennai 600 030