



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CONT.P(MD)No.487 of 2022

WEB COPY

Priyanka

... Petitioner

vs.

Neethi

... Respondent

Petition filed under Section 11 of the Contempt of Courts Act, to punish the contemnor/1st respondent for the willful disobedience and non-compliance of the order passed in C.M.P(MD)No.383 of 2021 in S.A(MD)No.27 of 2021 dated 21.01.2021.

Prayer in SA(MD). 27/ 2021 :

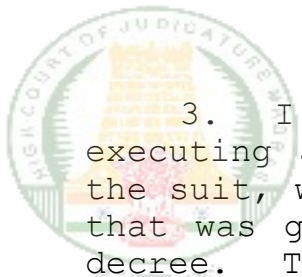
To set aside the Judgment and decree dated 06-09-2019 passed in A.S.No. 6 of 2015 by the Additional District Judge(FTC). Theni by confirming the Judgment and Decree dated 28-04-2009 passed in O.S.No.50 of 2008 by the Subordinate Judge,Uthamapalayam and pass such further order or orders as this Honble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.R.Saravanan

ORDER

Complaining that the respondent has sold the property, subject matter of the suit in O.S.No.50 of 2008, despite this Court having granted stay of execution of the decree, the petitioner has come up with this contempt petition.

2. The respondent as plaintiff sought for specific performance of an agreement of sale dated 16.04.2002 in O.S.No.50 of 2008. The said suit was decreed *ex parte*. The petitioner filed appeal in A.S.No.6 of 2015 and the appeal was dismissed by the learned Additional District Judge, Theni. Aggrieved, the petitioner has filed the above second appeal in S.A(MD)No.27 of 2021. Pending appeal, the petitioner sought for stay of all further proceedings pursuant to the decree(execution). I had by order dated 21.01.2021 granted stay of all further proceedings pursuant to the decree. It is the claim of the petitioner that the decree holder has sold the subject property to a third party after the order of stay and thus has willfully disobeyed the order of this Court amounting to contempt.



3. I do not think that the action of the respondent in executing a sale deed in respect of a property, subject matter of the suit, would amount to contempt of Court, since the interim order that was granted on 21.01.2021 is only a stay of execution of the decree. There is no order restraining the respondent from selling the subject property. Mr.R.Saravanan, learned counsel appearing for the petitioner would, however, contend that since the respondent has sold the property without title, the same amounts to contempt of Court. I do not think such a submission could be accepted. In order to constitute contempt, there should be a willful disobedience of a positive order of a Court. I do not find a positive order and as such, there cannot be a willful disobedience.

4. Hence, the Contempt Petition is dismissed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

bala

+1 CC to M/s.R. SAAVANAN, Advocate (SR-20613[F] dated 22/04/2022)

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MGJ(10.05.2022) 2P 2C