



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Contempt Petition(MD)No.625 of 2022

K.M.Mohaideen Abdul Kadhar

... Petitioner/Petitioner

vs.

Mr.R.S.Mariyappan, B.E., M.B.A.,
The Member Secretary,
Thoothukudi Local Planning Authority,
No.51, West Car Street,
Thoothukudi.

... Contemnor/Respondent

Petition filed under Section 11 of the Contempt of Courts Act, to punish the contemnor/respondent for willfully disobeying the order of this Court in W.P(MD)No.12989 of 2021 dated 29.07.2021.

Prayer in WP(MD). 12989 OF 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS or any other appropriate writ or order or directing the Respondent No.1 to 7 to initiate proceedings Under Town and Country Planning Act 1971 against the unauthorised building construction of the 8th Respondent in respect of Survey No.468/1A in D.No.29/3A1, Small Nesavu Street, Kayalpattinam Tuticorin Dist. based on Petitioners representations dated 11.03.2021 within the time stipulated by this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner

: Mr.B.Muneeswaran

For Respondent

: Mr.V.Nirmal Kumar

Government Advocate

ORDER

R.SUBRAMANIAN, J.

AND

S.ANANTHI, J.

The petitioner complains of disobedience of the order of this Court dated 29.07.2021 made in W.P(MD)No.12989 of 2021.

2. The grievance of the petitioner is that the direction to remove encroachment made in W.P(MD)No.12989 of 2021 by the order of



this Court dated 29.07.2021 has not been complied with. Paragraph 4 of the said order reads as follows:-

''4. Accordingly, the petitioner is permitted to carry a detailed fresh representation to the third respondent within two weeks of the receipt of a copy of this order whereupon the third respondent will act in accordance with law and inquire into the matter upon affording an opportunity of hearing to both the petitioner and the private respondents. The third respondent will pass a reasoned order within eight weeks of the receipt of the petitioner's fresh representation.''

3. The petitioner sent a representation to the 3rd respondent as per the directions contained in paragraph 4 above. However, the 3rd respondent pointed out that the area in question does not fall within the scheme under the Town and Country Planning Act and the power to remove the encroachment is vested with the Municipality. A communication has also been addressed to the petitioner stating that the power vests with the Municipality. It is seen that the Municipality has also taken action. This is evident from the letter of the Commissioner, Kayalpattinam Municipality, dated 08.03.2022. The petitioner has, however, not impleaded the Commissioner, Kayalpattinam Municipality, in the contempt petition. He has chosen to proceed for contempt against the 3rd respondent and the 3rd respondent had informed the petitioner that he has no power to evict encroachments in the area in question and the power vests with the Commissioner, Kayalpattinam Municipality.

4. We find that this contempt petition against the 3rd respondent cannot be maintained. Hence, this Contempt Petition is dismissed. It is open to the petitioner to file a contempt petition against the appropriate authority.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

Mr.R.S.Mariyappan, B.E., M.B.A.,
The Member Secretary,
Thoothukudi Local Planning Authority,
No.51, West Car Street,
Thoothukudi.

+1 CC to M/s.B. MUNEESWARAN, Advocate (SR-20607[F] dated 22/04/2022)

+1 CC to M/s.SPL.GP (SR-20899[F] dated 25/04/2022)

ORDER MADE IN
Cont.P(MD)No.625 of 2022
DATED : 22.04.2022

ark(CO)

GC(11.05.2022) 3P 4C