



CONT.P.(MD)No.1185 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**  
and  
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

CONT.P.(MD)No.1185 of 2022  
in  
W.P.(MD)No.598 of 2022

I.Vincentraja

... Petitioner

-Vs-

1.Regina Rajakumari,  
The Executive Engineer,  
TANGEDCO,  
Paramakudi,  
Ramanathapuram District.

2.Rajesh Lakkani,  
The Chairman,  
Tamilnadu Generation and Distribution Corporation Ltd.,  
144, Anna Salai,  
Chennai-600 002.

... Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Court Act, 1971 against the contemnor /respondent and punish them for the willful disobedience of the order of the Court in W.P.(MD)No.598 of 2022 dated 12.01.2022.

For Petitioner : Mr.G.Prabhu Rajadurai  
for D.Senthil

For Respondent : Mr.S.Deenadhayan,  
Standing Counsel for the Bank



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## **ORDER**

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Contempt petition has been filed against the willful disobedience of the order of this Court, dated 12.01.2022 made in W.P. (MD)No.598 of 2020.

2. Heard Mr.G.Prabhu Rajadurai, learned counsel for the petitioner and Mr.S.Deenadhayalan, learned Standing Counsel for the Bank.

3. The petitioner herein has filed the writ petition for issuance of writ of mandamus directing the respondents 1 to 6 to take action against the seventh respondent for illegally constructing a building without plan approval. An interim order was made in the following lines:-

*2. It is made clear that pendency of this writ petition is not a bar for the official concerned to measure the land in question in order to ascertain as to whether there is any encroachment as alleged by the petitioner, for which purpose, drone technology and FMB / Layout Plan can be utilized, after issuing due notice to the concerned parties and nobody can prevent the official concerned to*



*measure the land in question.*

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*3. This Court makes it clear that if any encroachment is found to be made by the private respondents, the electricity service connection with respect to the private respondents shall be disconnected in the light of the Judgment of the Division Bench of this Court in "P.Selvarajan vs. The Commissioner of Municipal Administration, Chennai and others" (W.P.No. 21639 of 2017) decided on 13.02.2018, wherein the Division Bench has observed as follows, in consonance with the order of the Supreme Court dated 05.01.2018, passed in Special Leave to Appeal (C) No. 33863 of 2017:*

*"3. Learned counsel appearing for the fourth respondent submitted that the fourth respondent has made an application for regularisation and that during the pendency of the proceedings, this Court, by order dated 11.09.2017, directed disconnection of electricity in respect of basement, second and third floors of the fourth respondent's premises, against which, the matter was taken up to the Supreme Court. The Supreme Court, in Petition for Special Leave to Appeal (C).No.26509 of 2017, by order dated 13.10.2017, did not interfere with the said order of this Court dated 11.09.2017, and permitted the fourth respondent herein to move the High Court. During the pendency of this Writ Petition, the fourth respondent herein has filed W.M.P.No.30495 of 2017 seeking direction to the TANGEDCO to restore the electricity connection to the building of the fourth*



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respondent. This Court, by order dated 07.11.2017, rejected the restoration of electricity supply. Thereafter, once again the matter was taken up to the Supreme Court by the fourth respondent, and the Supreme Court, by order dated 05.01.2018 in Petition for Special Leave to Appeal (C) No.33863 of 2017, has dismissed the Special Leave Petition, by observing as follows:

*"Heard learned counsel for the petitioner and perused the impugned order dated 07.11.2017 passed in WMPNo.30495/2017 passed by the Madras High Court.*

*We are not inclined to interfere in the impugned order and accordingly, the Special Leave Petition is dismissed.*

*However, we direct the authority concerned before whom the application for regularisation under the DTCP Building Regularisation Scheme 2017 is pending to decide the matter in accordance with law within two months."*

*4. This Court suo motu impleads the Chairman, Tamil Nadu Generation and Distribution Corporation Ltd., 144 Anna Salai, Chennai 600 002, as 8th respondent, who is expected to inform the concerned jurisdictional Assistant Engineer to comply with the directions that may be imposed by this Court. 5. Notice to the respondents 4, 5, 7 and 8 returnable by 14.02.2022. Private notice is also permitted. 6. It is made clear that private notice shall be despatched within three postal working days, excluding today, either through speed post or registered post and at the first instance, it is absolutely necessary to file the postal receipt into the*



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*Registry to show the despatch of private notice, within two working days from the date of despatch, without waiting for the fate of delivery. On the other hand, the receipt of acknowledgement card / returned cover is the second course of action for the purpose of filing a proof of service so as to hear the matter, after the service is completed and it has got nothing to do with the proof of despatch of private notice at the initial stage. The private notice shall be served by enclosing a copy of the affidavit and the prayer in the writ petition, so that as and when parties enter appearance, typed set can be served either on them or counsel representing them.”*

4. The learned counsel appearing for the petitioner relying upon para No.2 of the order extracted above submitted that the respondent though initiated action originally, has not proceeded further to pass final order.

5. The observation of this Court in para No.2 of the above said order only suggests that the respondent can proceed to take or initiate any action to ascertain whether there is any encroachment as alleged by the petitioner. This cannot be construed as a positive direction to initiate action.



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6. In a contempt petition, the petitioner has to prove willful disobedience of the directions of this Court. Here, this Court only expected the respondent to proceed further by indicating that the pendency of the writ petition is not a bar for the respondent to proceed further. Therefore, the order in the writ petition cannot be construed as a positive direction.

7. In this view of the matter, this Court has not find any merit in the contempt petition and hence, this Contempt Petition is dismissed.

8. The Registry is required to list the writ petition in W.P. (MD)No.598 of 2022 for final disposal during the **second week of September, 2022.**

[S.S.S.R., J.] [S.S.Y., J.]  
29.08.2022

Index : Yes / No

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To

- 1.The Executive Engineer,  
TANGEDCO,  
Paramakudi,  
Ramanathapuram District.
- 2.The Chairman,  
Tamilnadu Generation and Distribution Corporation Ltd.,  
144, Anna Salai,  
Chennai-600 002.



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**S.S.SUNDAR, J.**

and

**S.SRIMATHY, J.**

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