



Cont.P(MD)No.439 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cont.P(MD)No.439 of 2018

in

W.P(MD)No.12821 of 2017

R.Reeta

... Petitioner/Petitioner

Vs.

1.Mr.Kannan,
Tahsildar,
Vilavancode Taluk,
Kuzhithurai,
Kanayakumari District.

2.Ms.M..Sheela Evanjalin,
Commissioner,
Kuzhithurai Municipality,
Kanyakumari District.

... Contemnors/Respondents 3 & 5

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Court Act, 1971, to punish the contemnors/respondents 3 & 5 for their willful disobedience of the order of this Court, dated 22.08.2017 in W.P(MD)No.12821 of 2017.



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For petitioner : Mr.T.Arul
For R-1 : Mr.D.Sasikumar,
Additional Government Pleader
For R-2 : Mr.P.Athimoolapandian

ORDER

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

The order passed by a coordinate Bench in W.P(MD)No.12821 of 2017, dated 22.08.2017, was a direction to the Tahsildar, Kuzhithurai, to take appropriate action for removal of encroachment in T.S.No.D9/74 of Nalloor Village, Vilavancode Taluk, Kanyakumari District.

2. Alleging willful disobedience of the aforesaid order, dated 22.08.2017, the present contempt petition has been filed.

3. It is now brought to our notice that pursuant to the orders passed on 22.08.2017, the encroacher namely one Noorjahan, had filed a writ petition in W.P(MD)No.1294 of 2018, challenging the proceedings of the Kuzhithurai Municipality, dated 04.01.2018, wherein it was held as



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follows:

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“9.In the light of the above, the impugned notice requires to be set aside since the third respondent cannot exercise jurisdiction over the land in question, as admittedly the land vests with the Revenue Department. Therefore, while setting aside the impugned order, we direct the second respondent to conduct a survey of the area within a period of two weeks from the date of receipt of a copy of this order. Since the petitioners were all heard, no individual notice is required before conduct of survey, however date and time of survey of the land can be intimated and the in the presence of the petitioners, the survey shall be completed and based on the survey report, appropriate action shall be taken by the competent authority, within a period of three weeks thereafter.”

4. The learned Additional Government Pleader submitted that pursuant to the orders passed in W.P(MD)No.1294 of 2018, the Tahsildar, Vilavancode Taluk, had initiated proceedings under the Tamil Nadu Land Encroachment Act, 1905 and final orders came to be passed on 19.01.2019. As against the same, the encroacher had filed an appeal before the District Collector, Kanyakumari District, which was dismissed on 06.11.2019. The encroacher had thereafter filed a revision before the Commissioner of Land Administration, which is now said to be pending.



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5. The grievance of the petitioner is against the order passed by this Court in W.P(MD)No.12821 of 2017, wherein specific directions were given for removal of encroachment in accordance with law. Now that, all these proceedings have been initiated and the encroacher has also challenged the orders for removal of encroachment, which is now pending before the Commissioner of Land Administration, we are of the view that the earlier orders of this Court in W.P(MD)No.12821 of 2017, has been complied with.

6. When there is no disobedience of the order of the coordinate Bench much less willful disobedience, no further orders are required in this contempt petition. Accordingly, this contempt petition stands closed.

[M.S.R.,J.] & [G.R.S.,J.]
28.11.2022

Index : Yes/No

Internet : Yes/No

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AND
G.R.SWAMINATHAN, J.

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ORDER MADE IN
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28.11.2022