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Cont.P.No.214 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Cont.P.No.214 of 2023

1.T.Ramanathan alias Stephen

2.Mrs.R.Usha

... Petitioners

Vs.

1.M/s.Kripasanam Grothuvu Saba

Rep by Pastor S.Yobu

Residing at Thavanam Kattu Vilai,
Kanjirakkode, Unnamalaikadai Village,
Vilavankode Taluk, Kanyakumari.

2.M.Prabhudas

... Respondents

Prayer : Contempt Petition is filed under Section 11 of Contempt of Courts Act, to punish the respondents herein for wilful disobedience of the order of this Court dated 19.10.2022 in C.M.P.No.16773 of 2022 in C.R.P.No.2515 of 2022.

For Petitioners : Mr.S.Mukunth, Senior Counsel for
M/s.Sarvabhauman Associates



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ORDER

This Contempt Petition has been filed to punish the respondents herein for wilful disobedience of the order of this Court dated 19.10.2022 in C.M.P.No.16773 of 2022 in C.R.P.No.2515 of 2022.

2. Heard the learned counsel for the petitioners.

3. The impugned order has been passed in continuation of the order passed in C.R.P.No.2515 of 2022 dated 05.08.2022. The said Civil Revision Petition has been preferred by the second respondent herein by challenging the order of the learned II Additional Subordinate Judge dated 25.03.2022 made in E.A.No.1 of 2021 in E.P.No.105 of 2011 in O.S.No.909 of 2004. The order which was subjected to challenge in C.R.P.No.2515 of 2022 was passed in a petition filed by the second respondent herein under Section 47 of C.P.C. and the said petition was dismissed. Aggrieved over that, the second respondent has preferred a Civil Revision Petition and the same was also dismissed by confirming the order of the Executing Court made in E.A.No.1 of 2021 dated 25.03.2022. However, time to vacate the premises was granted till 30.09.2022 based on the affidavit of undertaking made by the second respondent and as



observed in paragraph No.5 of the order.

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4. Subsequently, the second respondent has filed a Civil Miscellaneous Petition in CMP.No.16773 of 2022 by seeking extension of time to vacate the premises. Taking into account of the Christmas festival, his request was considered and the Civil Miscellaneous Petition was allowed by extending the time till 03.01.2023 by making it clear that it was the last chance and hence no further extension will be given. Now, the petitioner has filed this Contempt Petition by stating that the order was not obeyed by the second respondent and hence he should be punished for contempt of Court.

5. The order passed in C.M.P.No.16773 of 2022 is just an extension of time and hence, it is part and parcel of the order dated 05.08.2022 made in C.R.P.No.2515 of 2022. The execution proceedings filed by this petitioner before the Executing Court in E.P.105 of 2011 is very much pending and it is at the stage of delivery. Only at that stage, the second respondent had filed a petition under Section 47 of C.P.C. and the same



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was dismissed and the order of dismissal was also upheld by this Court by virtue of the order dated 05.08.2022 in C.R.P.No.2515 of 2022.

6. As stated already, the order dated 19.10.2022 merges with the order that has been passed in C.R.P.No.2515 of 2022 dated 05.08.2022. So, the ultimate impact of this order is a confirmation that there is no hurdle for the Executing Court to execute the order of delivery. The grace time given to the second respondent despite his Civil Revision Petition was dismissed, was not probably understood and honoured by the second respondent. In such case, nothing would bind the hands of the Executing Court to proceed with the execution proceedings and order delivery, if the matter stood at the stage of delivery when Section 47 application was filed by the second respondent.

7. With these observations, this Contempt Petition is disposed. Since this order has been passed only by elaborating the impact of the earlier order passed in C.R.P.No.2515 of 2022 and C.M.P.No.16773 of 2022 in which the second respondent has actively participated, notice to the second



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respondent is not necessary and hence dispensed. It is needless to add that if the second respondent and his men cause impediment while executing the order of eviction, the petitioners are at liberty to file an appropriate application for arresting the Judgment Debtors and also for police protection by filing appropriate application during the Execution Proceedings.

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Index: Yes/No
Internet: Yes/No
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