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Cont. Petn. No.203 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN
AND
THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

Contempt Petition No.203 of 2022

R.Thiyagarajan

Petitioner

vs

1. Tr.R.Murugesan
The Commissioner,
Krishnagiri Municipality
Krishnagiri District.

2. Thiru.N.S.Saravanan,
The Tahsildar,
Krishnagiri Taluk,
Krishnagiri District.

Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, seeking to punish the respondents for having committed contempt of court by disobeying the order of this Court dated 24.03.2021 passed in W.P.No.7723 of 2021.



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For Petitioner	Mr. K.Kanagendran
For Respondents	Mr.P.Srinivas (R1)
	Mr.J.Ravindran,(R2)
	Additional Advocate General
	Assisted by Mr.A.Selvendran
	Spl.G.P.

ORDER

This contempt petition has been preferred seeking to punish the respondents for their willful disobedience of the order of this Court dated 24.03.2021 in W.P.No.7723 of 2021.

2. The learned counsel for the Petitioner submitted that the order passed by this Court on 24.03.2021 has not been complied with. It is further submitted that there are encroachments and in the interest of the local people encroachers should be prohibited from using the area in question.



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3. Today, when the matter was taken up for hearing, it is represented by Mr.A.Selvendran, learned Special Government Pleader that the encroachers approached this court by way of Writ Petitions in W.P.Nos.5300 of 2023 etc., batch and this Court by an order dated 23.02.2023 directed the encroachers to file application for regularisation, within a period of three weeks from the date of receipt of a copy of the said order and the same was directed to be considered within a period of eight weeks thereafter, but no application for regularisation has been filed by the encroachers till date. He further submitted that notice have already been issued for evicting the persons who are encroached and therefore there is no wilful default on the part of the Respondents, in complying with the order of this Court. He further submitted that if any application for regularisation is filed by the encroachers, the same will be considered in accordance with law.

4. Heard both sides. Perused the records.



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5. From the records, it is seen that this Court has passed an order on 24.03.2021, in W.P.No.7723 of 2021, directing the Respondents to dispose of the Representation of the Petitioner within a period of 8 weeks from the date of receipt of a copy of the said order, after hearing all the necessary parties who are affected, but no order has been passed on the said representation till date. Mr.Selvendran, learned Special Government Pleader appearing for the Respondents submitted that there are encroachments and the same will be removed.

6. If any construction has been made without plan, the same will have to be demolished forthwith, as a question of regularisation does not arise. In this case, after the completion if there is any deviation, the same will have to be set right, failing which the violated portion will have to be removed in such a way that the building cannot be used for occupation, in the light of decision of this Court dated 16.10.2018 in W.P.No.27499 of 2018. If no action is taken by the Respondents for removal of encroachment, it is open to the Petitioner to file fresh contempt petition. In the event of non



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compliance of the earlier order, we make it very clear that for wilful and deliberate disobedience of the order, stringent action should be taken against erring officials and in that case, imposition of fine is secondary and imprisonment is primary in terms of decision of Madurai Bench of this Court in ***W.P.(MD).No.16120 of 2023 dated 30.08.2023***.

7. Taking note of the submissions made by learned counsel appearing on either side, this contempt petition is closed directing the Respondents to remove the encroachments and commercial activities shall be stopped in the residential areas unless consent is taken. If any application is already made by the encroachers for regularisation in respect of the plan already sanctioned, the same shall be considered in accordance with law. We make it clear that the construction shall only be in accordance with the sanctioned plan.

(S.V.N., J.) (S.K.R., J.)
21.11.2023

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S. VAIDYANATHAN, J.
and
SENTHILKUMAR RAMAMOORTHY, J.

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