



Cont.P.No.573 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Cont.P.No.573 of 2023

and

Sub.Apl.Nos.157 & 158 of 2023

1.Krishnaveni
2.Markandan
3.Subramani

... Petitioners

Vs.

Vijaya
Thanigai Polur Village
Arakonam Taluk,
Vellore District.

... Respondent

Prayer: This Contempt Petition is filed under Section 11 of the Contempt of Court Act, to punish the respondent for Contempt of Court of Deliberately Disobedience of the Order passed by the Court in CRP.No.1041 of 2022 dated 12.01.2023.

For Petitioners : Mr.R.Balasubramanian



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ORDER

Contempt.No.573 of 2023 has been filed by the petitioners alleging contempt of the order passed by this Court dated 12.01.2023 in CRP.No.1041 of 2022.

2. In the affidavit filed in support of the contempt application, in Paragraph Nos.18 &19, the second applicant has averred as follows:

“18.The petitioners humbly submit that the Ld.Dist Munsif, Sholinghur in lethargic manner appointed an Advocate Commissioner to ascertain the facts. Accordingly the Advocate Commissioner accompanied with both side Counsel and inspected the suit premises on 24-09-2022 at 12.00 Noon and filed the Report stating that the scheduled mentioned property showed in the plaint as Hut. But at the time of inspection happened to see and filed the Report that no such Hut was found. The Terreced building and a single Room house of 38-1/4 feet length and breth with room in western side, and Cement sheeted house with bath room and a toilet in Eastern side and a cement sheet was installed to unite both houses. In back yard to 3 house side Cocunut trees, one Guava plant and Teak tree and flower plants are there.



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19. Therefore even the CRP pending in this Hon'ble Court, it proved that the Respondent constructed the building in lightning speed and after final order reserved on 02.12.2022 and pronounced by this Hon'ble Court on 12.01.2023, the Respondent completed the entire construction without allowing the Petitioners herein even to see the premises.”

3. Therefore, it is the case of the petitioners that the respondent herein constructed the building when the Civil Revision Petition was pending. It is not the case of the petitioners that the construction had taken place subsequent to the order dated 12.01.2023. Even when the Civil Revision Petition was pending, an Advocate Commissioner was appointed by this Court and he filed a report in pursuance of the order passed by this Court on 06.04.2022. The Advocate Commissioner visited the suit property on 24.09.2022 and noted down the physical features that were available in suit property on that date. In his report, the Advocate Commissioner had stated that there was no hut available in the suit property as mentioned in the plaint. On the other hand, there were two houses in the suit property, one on the western side with a room and the other on the eastern side with bathroom and toilet. The Advocate Commissioner also mentioned that there was a cement



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sheet roofing. Apart from that, he also noted down the certain vegetation in the suit property. Along with Contempt Petition, the petitioners also filed photographs of the suit property at page No.187 of the typed set of papers.

4. A look at the photographs shows that there are two houses with cement roofing. Therefore, the photographs filed by the applicants reflects the physical features noted by the Advocate Commissioner on 24.09.2022. Further, it is not the case of the petitioners that any construction was made subsequent to the passing of the order dated 12.01.2023. Even as per the own averment of the petitioners, constructions were made pending the Civil Revision Petition.

5. The Learned Counsel for petitioners submitted that photographs dated 12.02.2023 proves act of contempt by respondent. The photograph produced by petitioners at Page 187 of typed set only proves that the photograph was taken on 12.02.2023. It cannot be taken as evidence for proving date of construction. In fact physical features available in



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Photographs produced by petitioners is in accordance with physical features noted by Advocate Commissioner when he visited suit property on 24.09.2022. Hence, there is no material available on record to suggest alleged construction had taken place subsequent to order dated 12.01.2023.

6. Therefore, the petitioners have not made out any case in support of the contention that the respondent had committed the act of contempt as against the order dated 12.01.2023. Hence, this Contempt Petition is dismissed. Consequently, connected sub-applications are closed.

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Index : Yes / No
Internet : Yes / No
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S.SOUNTHAR, J.

Dna

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