



Cont.P.Nos.586 of 2022 & 1242 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Cont.P.Nos.586 of 2022 & 1242 of 2023
and Sub-Appln. No. 667 of 2022
in W.P.No. 7177 of 2018

Mrs.J.Maheshwari,
W/o. V.Jaisankar

... Petitioner in
Cont. P. No.586 of 2022

Mr.Dhinakar,
S/o. Udhayakumar

... Petitioner in
Cont.P.1242 of 2023

-VS-

1. Dr.M.Elangovan,
Commissioner,
Pallavapuram Municipality,
(Now Tambaram Corporation),
Pallavaram, Chennai-600 043.

2. Mr.S.Jagannathan,
Managing Director,
M/s. Framework Infrastructure Pvt. Ltd.

... Common Respondents



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COMMON PRAYER : Contempt Petition has been filed under Section 11 of Contempt of Court Act, 1971, praying to punish the respondents for disobedience of the orders of this Hon'ble Court dated 18.08.2021 made in W.P.No. 7177 of 2018.

For Petitioner in
Cont.P. No. 586 of 2022 : Mr.A.E.Ravichandran
For Respondents
in Cont.P.No.586 of 2022 : Mr.P.Srinivas for R1
Mr.P.Chandrasekaran for R2

For Petitioner in
Cont.P. No.1242 of 2023 : Mr.V.Sivanandham

For Respondent
in Cont.P.No.1242 of 2023 : Mr.P.Chandrasekaran for R2

COMMON ORDER

The Contempt Petitioners herein are the Respondents 7 & 6 in the Writ Petition No.7177 of 2018 respectively filed by the Writ Petitioner for the following relief :-

“to issue a Writ of Mandamus, directing the first and second respondents to rectify the deviation in accordance with approved building plan and stop work notice dated 12.02.2018 by demolishing the illegal construction put up in the construction



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of flats comprised in S.Nos. 351 and 352 as per Pallavaram Town Survey Field Register Extract, Ward No.3, Block No.9, T.S.New No.152/2, Old S.No.352/53A (Part) 352/53(B) Part and 351/1 of Zamin Pallavaram Village”

2. The contention of the Contempt Petitioners is that they are the purchasers of flats in respect of the property in question in the Writ Petition promoted by the 2nd respondent herein/3rd respondent in the Writ Petition. The Respondents 5, 6 and 8 in the Writ Petition are the purchasers of other flats. All purchasers including the Contempt Petitioners have entered into a construction agreement with the 2nd respondent, who is a Promoter in the year 2017 for construction and delivery of flats. Contempt Petitioners and other purchasers availed loans from the State Bank of India towards purchase of flats and the 2nd respondent / Promoter received around Rs.2 Crores from four home loan accounts of flat-purchasers by the end of 2017. As per the terms of agreement, the 2nd respondent had to complete the construction and deliver the flats by June 2018.



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3. It is further contention of the Contempt Petitioners that though the Flat had not been constructed and handed over by the Promoter as per the norms, EMI Amount of around Rs.49,000/- per month had been started to be deducted from the home loan account of the Contempt Petitioner from the year of 2017. The Promoter gave an allotment of unauthorised flats in the parking area, due to which, a landlady, by name, Mrs.Saraswathy @ Saraswathy Kala gave a complaint before the Pallavaram Municipal Authority during February 2018 in addition to filing the Writ Petition. At the time of hearing the Writ Petition, the Promoter appeared before this court and submitted that he was prevented by the Writ Petitioner / Landlady from carrying out the demolition of deviated portion, on account of which, this Court, by an order dated 20.07.2021, impleaded the Police authority / 9th respondent to provide police protection for carrying out the demolition works. The Promoter continued the demolition work of the deviated portion till 18.08.2021 and a revised plan was submitted before the Commissioner, Pallavaram Municipality. The Writ Court, keeping in mind the aforesaid submission, closed the Writ petition, by issuing certain directions on



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18.08.2021. A direction was also issued to the 2nd respondent in the Writ to take a decision on the revised plan within a stipulated time and till now, the Promoter has not submitted the revised plan. In fact, the Promoter has also not demolished the deviated portion and attempted to play fraud on the Court. Hence, the Contempt Petitioners have filed these Contempt Petitions against the respondents praying to punish them for the disobedience of the order of this Court dated 18.08.2021.

4. During the pendency of the contempt proceedings, the Promoter / S.Jagannathan appeared before this court along with his counsel and the authorities concerned also appeared. The contempt proceedings were initiated against the Builder and Municipality. It was brought to the notice of this Court that in May 2023, the Contemnor / Builder was arrested by C.C.B. Bank Fraud Cases Wing, Chennai based on the complaint given by State Bank of India. Thereafter, he was released on bail and appeared before this court and submitted that a part of the deviations were demolished and was ready to submit a revised plan. Accordingly, he presented the same before the



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1st respondent herein, which was approved by the Pallavaram Municipality on 07.07.2023. However, the learned counsel for Contempt Petitioners would submit that the Promoter was detained under Act 14 of 1982, as he committed various frauds. It is submitted by the Contempt Petitioners that in order to avoid further complications in the approval process, they have spent around a sum of Rs.4,42,500/- towards preparation, submission, processing, municipal fee etc. for obtaining the revised plan. They also submitted that the construction is yet to be completed, for that, the Site Engineer of the Promoter submitted an approximate estimate of Rs.28,63,400/- for completion of the remaining construction work on 26.07.2023 for four flats along with common area.

5. As far as the petitioner's flat in the 1st Floor (F1) in Cont.P.No.586 of 2022 is concerned, it requires a further cost of Rs.4,30,100/- and a cost of Rs.3,55,100/- in respect of the petitioner's flat in the 1st floor (S4) in Cont.P.No.1242 of 2023. It was stated by the petitioner in Cont.P.No.586 of 2022 that for the loan availed by her, as on date, the outstanding loan amount



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is Rs.45,00,000/- and she had already paid a sum of Rs.32,00,000/- towards principal and interest. It was also stated in order to avoid further complications, the Contempt Petitioners are ready to spend the amount to complete the balance portions of construction and are also ready to clear the encumbrance created by the Promoter, so as to enable them to deal with flats as absolute owners.

6. Heard and considered rival submissions made by learned counsel for Contempt Petitioners and respondents and also perused the records.

7. On circumspection of the facts involved in this case coupled with the submissions made by learned counsel for Contempt Petitioners, it could be seen that the Contempt Petitioners are innocent purchasers and are being harassed by the 2nd respondent from the year of 2017. The Contempt Petitioner in Cont.P.No.586 of 2022, without occupying the property, has been paying E.M.I. with interest.



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8. In view of the afore-stated position, we are of the view that liberty may be granted to the Contempt Petitioners to spend additional amount for completion of the remaining construction and to carry out the said task, the signature of the Promoter is a must and mandatory. Considering the fact that if the construction is not completed, purchasers of the flats cannot realize their flats from the Promoter. The innocent Contempt Petitioners were already dragged from pillar to post for no fault of theirs and owing to the lethargic attitude of the Promoter.

9. In fine, while permitting the Contempt Petitioners to move on with the balance construction activities, by spending additional amount, we direct the concerned Jail Authorities to arrange for obtaining a signature from the 2nd respondent herein, viz., S.Jagannathan in the revised estimate given by the Site Engineer. Learned counsel for 1st respondent is also directed to assist Jail Authorities to get his signature in the revised estimate and the valuation report.

10. It was reported that the revised plan was already submitted by the 2nd respondent/contemnor before the 1st respondent. In view of the same, the



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1st respondent, on receipt of requisite documents & fees, etc., shall scrutiny the same and accord necessary approval to the Contempt Petitioners forthwith.

11. With the above observations and directions, ***these Contempt Petitions are closed***, with liberty to the Contempt Petitioners to complete the construction as per Engineer's report as well as recover the amount spent by them in respect of various charges, with interests from the 2nd respondent / Contemnors in the manner known to law. It is made clear that if the costs incurred by the Contempt Petitioners are not reimbursed by the 2nd respondent herein, it is open to them to file a fresh contempt against him. The Contempt Petitioners shall retain all bills in respect of constructions and other charges for production to the 2nd respondent and for getting reimbursement from him. Upon completion of flats, necessary completion certificate should be issued, in addition to extension of electricity, water and sewage connections to the building of the Contempt Petitioners by concerned Authorities immediately. It is further made clear that all



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transactions must be done by the Contempt Petitioners only by means of
Cheque / Demand Draft / Gpay / NEFT / RTGS. No costs, Consequently,
connected sub-application is closed.

(S.V.N.,J)

(T.V.T.S.J.,J)

03.08.2023

Speaking order/Non speaking order

Index: Yes/No

Internet: Yes/No

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Note: Issue order copy on 08.08.2023

To

1. Dr.M.Elangovan,
Commissioner,
Pallavapuram Municipality,
(Now Tambaram Corporation),
Pallavaram, Chennai-600 043.

2. The Public Prosecutor,
High Court, Madras.

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