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Cont.P.No.642 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **04.08.2023**

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

**Cont.P.No.642 of 2020
and Sub.Apppln.Nos.303 of 2020, 390 of 2020
and 723 of 2022**

R.Rajendran

..... Petitioner

Vs.

1. Thiru.P.Ponniah
District Collector, Kanchipuram District.
2. Tmt.Narmadha
Special District Revenue Officer (Land Acquisition)
National Highways Project, Bangalore to Chennai Expressway,
Kanchipuram, Kanchipuram District.
3. Tmt.Meena
Special Tahsildar (LA),
National Highways Project, Bangalore to Chennai Expressway,
Kanchipuram, Kanchipuram District.
4. Shri.Pawan Kumar
Project Director, National Highway Authorities of India
No.DP, 34, Sri Towers South Phase,
Third Floor, Guindy, Chennai - 600 032.



Cont.P.No.642 of 2020

5. Tmt.Pichaiammal
Block Development Officer (B.P.)
Sriperumbudur,
Kanchipuram District.

..... Respondents

***(First Respondent deleted as per the order
of this Court dated 25.01.2023 made in
Sub Appln.No.733 of 2022 in Cont.P.No.642 of 2020)***

Prayer : Contempt Petition filed under Section 11 of Contempt of the Courts Act, 1971, for wilful disobedience of the order passed in W.M.P.No.3683 of 2020 in W.P.No.3177 of 2020, dated 10.02.2020.

For Petitioner : No Appearance

For Respondents : Mr.P.Kumaresan, AAG
assisted by
Mr.Yogesh Kannadasan, Spl.G.P
for CBCID & Vigilance

Mr.Omprakash, Senior Counsel
for Mr.P.N.Kamalanathan for R2

Mr.T.Thiyagarajan for R3

Mr.Su.Srinivasan,
Standing Counsel for R4

Mr.M.Elumalai for R5

ORDER

The facts germane to filing of this Contempt Petition are as follows :

(i) That for a National Highways Scheme to be undertaken by



Cont.P.No.642 of 2020

National Highways Authority of India (in short “NHAI”), certain lands in Sriperumbudur Taluk, Kanchipuram District, were sought to be acquired.

(ii) Notification in this regard was issued by Union Ministry of Road Transport and Highways on 05.12.2017.

(iii) In this process, lands were acquired from two villages, namely Nemili-A and Ayakolathur villages.

(iv) In the land acquisition proceedings, as per the award passed, compensation were disbursed to the land owners.

(v) While that being so, one Rajendran, S/o. Ramasamy had filed a writ petition in W.P.No.3177 of 2020, where he claimed that, he was having vacant lands at various nagars developed in that villages by some developers, out of which, lands earmarked for public purposes like road, street, public utility like school, park etc., having been earmarked as per the lay out plan were handed over to the local body by way of Gift Deed. Therefore by virtue of that, those lands which is otherwise called as OSR lands have been vested with the local body concerned.

(vi) The said writ petitioner also stated that, subsequently when the land acquisition proceedings as stated supra had been initiated, it seems



Cont.P.No.642 of 2020

that several number of individual persons managed to get registered the lands earmarked as OSR lands and handed over to the local body, as if, it is their private lands from the original promoters and based on which, they also claimed compensation from land acquisition authorities.

(vii) Pursuant to such claim made, huge sum have already been distributed or being distributed, however, the compensation calculated for such lands which were originally earmarked as OSR lands are to be evenly distributed to the land owners like the writ petitioner as they have purchased the plots in the lay out plan developed by the original promoters, therefore, if at all the OSR lands also are acquired for the Highways purpose, the compensation payable to such OSR lands also to be paid to them evenly and without paying the same to them, it was about to be distributed to various individuals who clandestinely registered such lands in their favour from the original promoters as if that those lands still were in the hands of the original promoters unmindful of the handing over of the said OSR lands to the local bodies. Therefore in order to restrain the official respondents, i.e., land acquisition authority from distributing the said compensation forbearing the individuals from receiving such compensation amount for the public utility



Cont.P.No.642 of 2020

reserved areas in the lay out properties, had approached this Court and filed the said writ petition in W.P.No.3177 of 2020 seeking for a writ of mandamus directing the official respondents in the writ petition to consider the representation in this regard of the writ petitioner dated 10.11.2019 and forbearing the respondents 8 to 18, i.e., the private persons who had been named as respondents in the writ petition from receiving the compensation amount for the public utility reserved areas in the lay out property.

(viii) The said writ petition came up for hearing before a learned Judge on 10.02.2020. On that date, the learned Judge, on the prima facie case projected by the writ petitioner, passed an interim order to the following effect :

"Heard Mr. S. Sathish, Learned Counsel for the Petitioner, Mr. M.Elumalai, Learned Government Advocate for the First to Third and Fifth Respondents, Mr. Su.Srinivasan, Learned Counsel for the Fourth Respondent and Mr. M. Thamizharasan, Learned Additional Government Pleader for the Sixth and Seventh Respondents and perused the materials placed on record, apart from the pleadings of the parties.



WEB COPY



Cont.P.No.642 of 2020

2. Notice to the Eighth to Eighteenth Respondents returnable by 01.04.2020. Private notice is also permitted.

3. Since the dispute in the Writ Petition relates to ascertaining who would be actually entitled to receive the compensation for the OSR land which has been acquired, it shall be ensured by the First to Fifth Respondents that after determining the amount of compensation payable for that acquired land, the same is invested in an interest fetching Fixed Deposit in any Nationalised Bank in Chennai City in the name of the Registrar-General of this Court initially for a period of one year and renewable automatically from time to time, and the original receipt of the Fixed Deposit shall be handed over to the Registry of this Court under written acknowledgment, until further orders."

(ix) The said order of direction was issued by the learned Judge on 10.02.2020, directing the official respondents in the writ petition, i.e., respondents 1 to 5, that after determining the amount of compensation payable for the acquired land, the same must be ensured to be invested in an interest fetching Fixed Deposit in any Nationalised Bank in Chennai city in



Cont.P.No.642 of 2020

the name of Registrar General of this Court initially for a period of one year and renewable automatically from time to time and such original receipt of the Fixed Deposit shall be handed over to the Registry of this Court with written acknowledgment until further orders.

(x) Pursuant to this order, the first respondent in the writ petition, who was the District Collector then, had sent a letter on 17.02.2020 to the second respondent who was the then Special District Revenue Officer (Land Acquisition), National Highways Projects Bangalore to Chennai Expressway, Kanchipuram, Kanchipuram District, where the first respondent, District Collector stated the following :

காஞ்சிபுரம் மாவட்டம், திருப்பெரும்புதூர் வட்டம், திருப்பெரும்புதூர் கிராமம் பெங்களூர் - சென்னை விரைவு சாலை திட்டம் - மாண்புமிகு சென்னை உயர்நீதிமன்ற வழக்கு எண் W.P.No.3177/2020ன் இடைக்கால உத்தரவின்படி நில எடுப்பு செய்யப்பட்ட வீட்டுமனைப்பிரிவில் அடங்கியுள்ள சாலை உள்ளிட்ட பொது இடங்களுக்காக இழப்பீட்டுத்தொகையினை புதிய நபர்கள் எவருக்கும் வழங்க கூடாது என



Cont.P.No.642 of 2020

ஆட்சேபனை தெரிவித்து மனு செய்துள்ளார்.
மேற்படி பார்வையில் கண்டுள்ள மனு உரிய
நடவடிக்கைக்காக அசலாக இத்துடன்
இணைத்து அனுப்பியுள்ளேன். மேற்படி
மனுவின் மீது நடவடிக்கை மேற்கொண்டு
அதன் விவரத்தை மனுதாரருக்கும்
இவ்வலுவலகத்திற்கும் தெரிவிக்குமாறு
கேட்டுக்கொள்கிறேன்.

இணைப்பு : மேற்கண்டவாறு

மாவட்ட ஆட்சித்தலைவருக்காக

காஞ்சிபுரம்

//உத்தரவின்படி//

தலைமை உதவியாளர்

(xi) That apart, the writ petitioner also after obtaining the interim order dated 10.02.2020 as stated above, has communicated the same to the official respondents including the second respondent, i.e., Special District Revenue Officer on 10.02.2020 itself.

(xii) Despite the said order passed by this Court having been communicated or conveyed, both by the writ petitioner as well as the first respondent, District Collector, it seems that the second respondent had further proceeded to disburse the compensation amount to the individuals



Cont.P.No.642 of 2020

whose land which were originally allotted as OSR lands had been re-registered in their name, based on which they claimed compensation. Once again the writ petitioner had sent a communication dated 24.05.2020 to the second respondent in the writ petition, where the writ petitioner has stated the following :

"தங்கள் அலுவலகத்தின் மூலம் சென்னை - பெங்களூர் விரைவு சாலை திட்டத்தின்படி (Chennai - Bangalore Express Highway Project) நில ஆர்ஜித்திற்கு உட்பட்ட, அங்கீகாரம் மற்றும் அங்கிகாரம் பெறாத வீட்டு மனை பிரிவில் அடங்கிய சாலை, பூங்கா, பள்ளிக்கூடம், கோயில், சமுதான கூடம், நூலகம், விளையாட்டு மைதானம் உள்ளிட்ட பொது பயன்பாட்டிற்கு ஒதுக்கப்பட்ட நிலங்களுக்கான இழப்பீடு தொகை எதனையும் யாருக்கும் வழங்கக்கூடாது என்றும், இழப்பீட்டு தொகையினை மாண்புமிகு செய்னை உயர்நீதிமன்றத்தின் பதிவாளர் (Registrar General) பெயரில்

சென்னையில் உள்ள தேசிய வங்கியில் வைப்பீடு செய்ய வேண்டும் என்றும், அதற்கான ரசீதினையும் நீதிமன்றத்தில்



Cont.P.No.642 of 2020

தாக்கல் செய்ய வேண்டும் என்றும்,
மாண்புமையுடைய சென்னை உயர்நீதிமன்றம்
10.02.2020 தேதியிட்ட WMP No.3683/2020 in
W.P.No.3177/2020ல் பிறப்பித்த இடைக்கால
உத்தரவில் தெளிவு படுத்தி உள்ளது.
எனவே மேற்கூறிய மாண்புமையுடைய சென்னை
உயர்நீதிமன்ற உத்தரவினை மதித்து
இழப்பீட்டு தொகையை வேறுயாருக்கும்
வழங்காமல் நீதிமன்றத்தில் செலுத்த
நடவடிக்கை எடுக்கும்படி
கேட்டுக்கொள்கிறேன். மேற்படி இடைக்கால
உத்தரவினை கடந்த 11.02.2020 அன்றே
தங்கள் அலுவலகத்திற்கு தெரிவித்துள்ளேன்
என்பதையும் இக்கடிதம் மூலம்
தெளிவுபடுத்துகிறேன்."

(xiii) Despite these communications pursuant to the order, dated 10.02.2020, since the second respondent, i.e., the Special District Revenue Officer had not acted upon by complying or obeying the orders of this Court, dated 10.02.2020, the writ petitioner had issued a legal notice on 23.06.2020, where he called upon the second respondent in the writ petition to the following effect :



Cont.P.No.642 of 2020

"Hence, I hereby request yourselves to comply with the directions of the Hon'ble High Court passed in WMP.No.3683 of 2020 in W.P.No.3177 of 2020, dated 10.02.2020 forthwith failing compliance of the directions given by the Hon'ble High Court order appropriate contempt proceedings will be initiated against yourselves as per law."

(xiv) Despite these efforts taken by the writ petitioner including the proper communication made by the first respondent, District Collector, the second respondent since had not acted upon as per the orders passed by this Court, the petitioner was triggered to file this Contempt Petition. That is how this Contempt Petition has been filed.

3. When this contempt petition came up for hearing on 20.08.2020 before a learned Judge, since there was no representation on behalf of the petitioner, the learned Judge had given direction to the Government Advocate who had taken notice for the official respondents to get instruction as to whether there was any violation of the order passed by this Court in the writ petition, i.e., in W.M.P.No.3683 of 2020 in W.P.No.3177 of 2020,



Cont.P.No.642 of 2020

dated 10.02.2020 and file a report.

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4. Again the case came up for hearing on 16.09.2020, where the learned Judge having recorded the earlier interim order passed in the writ petition on 10.02.2020 has given the following directions to the official respondents.

"4. In view of the aforesaid contentions of the Petitioner, the Respondents shall file an affidavit on or before 12.10.2020, explaining as to:

(i) whether the entire amount of compensation has been remitted with the Registrar General of this Court as required in the order passed by this Court, and if so, produce proof in that regard;

(ii) whether any of the compensation amount has been paid to the persons as mentioned in para 5 of the affidavit filed in support of the Contempt Petition or anyone else, and if so, provide the details of the same."

5. This contempt petition again came up for hearing before another



Cont.P.No.642 of 2020

learned Judge on 11.11.2022 and 17.11.2022. On 17.11.2022, the learned

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"On 11.11.2022, this Court issued statutory notice to the respondents 1 to 3 for complying with the order passed by this Court. Pursuant to the above notice, the respondents 1 & 3 have appeared before this Court. However, the second respondent is absent. The learned Additional Advocate General appearing on behalf of the respondents submitted that the second respondent is absconding and this Court may issue Non-bailable warrant against the second respondent.

2. Registry is directed to issue a Non-bailable warrant against the second respondent and the same has to be executed through the concerned jurisdictional Superintendent of Police. The second respondent shall be produced before this Court on 28.11.2022.

3. In order to give one more opportunity for complying with the order, this Court directs the first respondent to file a compliance report before this Court on or before 28.11.2022.

4. Post this case on 28.11.2022 for reporting



compliance and production of the second respondent along with connected writ petitions."

6. Again it came up before the learned Judge on 02.12.2022, where the learned Judge has passed the following order :

"4. Pursuant to the above said order, the second respondent has appeared before this Court on 28.11.2022 and this Court had directed the CBCID to take necessary action in this matter and adjourned the cases for filing report. On the other hand, the learned Standing Counsel appearing on behalf of the National Highways submitted that the amount involved in the present case is about Rs.190 Crores.

5. Today, when the matter is taken up for hearing, the learned counsel for the CBCID submitted that the entire compensation amount, which was disbursed by the second respondent to the alleged ineligible persons, have been recovered and the said cheque is also produced before this Court and the learned counsel seeks time to encash the said cheque.

6. In view of the submission made by the learned



Cont.P.No.642 of 2020

counsel appearing on behalf of the CBCID, this Court passes the following order: "(i) The first respondent is directed to encash the cheque amount and deposit the same in the name of the Registrar-General, High Court of Madras, within a period of two weeks from the date of receipt of a copy of this order and report before this Court on 16.12.2022; and

(ii) the second respondent shall appear before this Court on 16.12.2022 and file a detailed report on that day as to the basis on which she disbursed the sum of Rs.190 Crores to the ineligible land owners."

Post these cases on 16.12.2022 "for reporting compliance" ."

7. Only at that stage, the contempt petition came up before me on 20.12.2022, where I have passed the following order :

"7. Having noted the said submission made by the learned counsel for the 2nd respondent, this Court feels that when a direction was given by this Court on 02.12.2022 to the 2nd respondent to appear before this Court and file a report, even for health reasons if the 2nd respondent is not able to appear



before this Court, proper application should have been filed on her behalf before this Court for seeking exemption from appearing before this Court today. However, no such attempt has been made on behalf of the 2nd respondent and the report also has not been filed. This kind of attitude on the part of the 2nd respondent can only be construed as a further wilful violation of the direction given by this Court.

8. Therefore, in order to prove her bonafide to appear before this Court and file a report as directed by this Court, this Court wants to give one more chance to her. Hence, this Contempt Petition is posted on 22.12.2022 for the 2nd respondent's appearance and the report as directed already.

9. Insofar as the 3rd respondent is concerned, she has appeared before this Court and her appearance is noted. She claims that she is on leave. It is submitted by the learned counsel for the petitioner as well as the Additional Advocate General appearing for the State that, the 3rd respondent who was working only as a Tahsildar at that time has nothing to do with the disbursement of the amount by the 2nd respondent, as the nod of the



3rd respondent might not have been required for the 2nd respondent for disbursement of the amount.

10. However, in the order dated 10.02.2020, the learned Judge directed all the five respondents herein who are the first five respondents in the writ petitions to ensure that the amount would be deposited in the Court account and no such disbursement shall be made to wrong persons. Despite the order the amount to the extent of Rs.20 Crores since have been disbursed to the alleged wrong persons, it is to be considered as a serious issue, ie., how this contempt petition is being pursued for all this time by passing several orders by this Court. Therefore, for the time being, the appearance of the 3rd respondent before this Court is dispensed with, however, when it is required, she may be directed to appear before this Court in future.

11. Insofar as the 1st respondent is concerned, learned representing counsel appearing for Mr.P.Wilson learned Senior counsel would submit that, he has nothing to do with the issue that has been complained of in this contempt petition, as



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Cont.P.No.642 of 2020

the 1st respondent being the District Collector was only to act as an arbitrator and that stage has not come and insofar as the 10.02.2020 interim order is concerned, after the said interim order was passed by this Court, the 1st respondent has sent a communication on 17.02.2020 to the 2nd respondent intimating her that appropriate action shall be taken as per the Court order dated 10.02.2020.

12. Second time also such communication has been sent by the 1st respondent to the 2nd respondent. However, the 2nd respondent independently had acted upon disbursing this amount as stated supra. Therefore, in this context it is the submission of the learned counsel for the 1st respondent that, the name of the 1st respondent can be deleted from the array of parties in this Contempt Petition for which a sub-application has been filed, where Mr.P.Wilson, Senior Counsel has been engaged and he seeks adjournment of this contempt petition along with the sub-application for hearing sometime in the 1st week of January, 2023.

13. Insofar as the hearing of the said application



filed by the 1st respondent for deletion of his name from the array of parties is concerned, that shall be posted along with the main writ petitions on 09.01.2023.

14. Insofar as the 4th and 5th respondents are concerned, since there has been no order for their personal appearance, the same status shall continue. 15. Post this contempt petition for the above purpose of appearance of the 2nd respondent and to file a report, on 22.12.2022."

8. Thereafter on 22.12.2022, this case came up for hearing, where after hearing the learned Senior counsel appearing for the second respondent / contemnor, I have passed the following order :

"Pursuant to the direction issued on 20.12.2022, the second respondent in this contempt petition viz., Tmt.Narmadha, the then District Revenue Officer, now the Commissioner of Tribunal for Disciplinary Proceedings at Madurai appeared before this Court. 2. Mr.Om Prakash, learned Senior Counsel appearing for the said second respondent wants further time till 03.01.2023 to



file the report as directed by this Court by order dated 02.12.2022 reiterated by order dated 20.12.2022. 3. Accepting the said plea made by the learned Senior Counsel appearing for the second respondent, time is granted till 03.01.2023 to file such report without fail. 4. Post this contempt petition on 03.01.2023. On that date, the second respondent shall remain present before this Court."

9. Thereafter the case came up for hearing on 04.01.2023. On that date, a report called "Detailed Report" of the second respondent was filed by the learned Senior counsel appearing for the second respondent as directed by this Court, where in para 18.1, the second respondent has admitted that the payment of compensation has been made on three dates, i.e., on 26.05.2020, 16.05.2020 and 12.08.2020. However, the defence taken by her was that the amounts paid to them wrongly have been recovered from them subsequently.

10. After having gone through the report and hearing the learned



Cont.P.No.642 of 2020

Senior counsel appearing for the second respondent as well as other learned

counsel appearing for the parties, this Court has passed the following order :

2. The learned Senior Counsel has filed a report called 'Detailed Report of the 2nd respondent', as directed by this Court, dated 03rd January 2022, wherein inter alia the 2nd respondent has stated the following:

“18.I humbly submit that the payment of compensation made to the claimants in respect of land in present Survey Nos.46/3A2, 46/4A2, 46/4B2, 46/45A1B, 46/5B1B, 47/1, 47/3, 47/1B, 47/2, 47/3, 47/4A, 48/1, 48/2B, 48/3A2, 48/6A1A2, 51/6B, 51/6B, 51/7A2, 51/8A2, 51/9B, 51/10, 51/11, 51/12, and 52/1B situated at Ayakolathur Village, Sriperumbudur Taluk, Kancheepuram District has been given as per R.C.No.147/2018 dated 08.01.2020. The payment of compensation has been made on 26.05.2020, 16.05.2020 and 12.08.2020 after the passing of the interim orders by this Hon'ble Court. It is submitted that it has been stated that No OSR is



Cont.P.No.642 of 2020

notified or involved as per 3A(1), 3d(1) and Award Proceedings and the same is reiterated in the Additional Affidavit of Mr.B.Rajendran, the Special District Revenue Officer (LA), Kancheepuram, who succeeded me in the said post, dated October, 2020. I further humbly submit that the amounts paid to the individual claimants have been recovered as ordered by this Hon'ble Court.”

3. After having gone through this report, when this Court posed a question to the learned Senior Counsel appearing for the 2nd respondent as to which period the 2nd respondent had been the District Revenue Officer i.e. Special Officer for Land Acquisition for National Highways Project, he submitted that, the 2nd respondent had been in that position from May 2015 till August 2020.

4. Insofar as the two villages are concerned, from where lands were acquired for the Highways Project, according to the learned Senior Counsel, in respect of Nemili-A Village the Award was passed on 15.03.2018 and in respect of Ayakolathur Village an Award was passed on 08.01.2020. In



Cont.P.No.642 of 2020

this regard, what was the total award amount and what was disbursed and what is the balance yet to be disbursed has also been mentioned in a table in the report of the 2nd respondent which reads thus:

“20. I humbly submit that as per the Award, the total compensation amount approved by NHAI for the acquired lands, disbursed amount and balance amount to be disbursed for Nemili-A and Ayakolathur villages as tabulated below.

<i>Name of the Village</i>	<i>Award No. Date</i>	<i>Total Award Amount</i>		<i>Disbursed Amount</i>		<i>Balance Amount yet to disbursed</i>	
		<i>Sqm</i>	<i>In Rs.</i>	<i>Area Sqm</i>	<i>In Rs.</i>	<i>Area Sqm</i>	<i>In Rs.</i>
Nemili A	Rc.143/2018/B CE/NH Dated: 15.03.2018	221036	190,49,38,847	187375	165,16,02,324	33661	25,33,36,523
Ayakolathur	Rc.147/2018/B CE/NH Dated: 08.01.2020	143946	95,91,18,950	125930	82,30,78,374	18016	13,60,40,576
		364982	286,40,57,797	313305	247,46,80,698	51677	38,93,77,099

5. The learned Senior Counsel would also submit that, insofar as the lands which are now considered to be OSR lands for which the compensation has wrongly been given to the persons who are not the real owners of the lands concerned, the revenue records stands only in the name of private



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Cont.P.No.642 of 2020

individuals and it did not disclose that, those lands belongs to local authorities as OSR lands, therefore based on the input supplied by the office of the 2nd respondent who then was, she approved such disbursement of compensation. Therefore, on this score the learned Senior Counsel for the 2nd respondent submits that, the 2nd respondent is not guilty and if at all the said amount has been disbursed that is only due to inadvertence and not intentional.

6. However, this Court have perused the averment at para 18 of the report which is an admitted fact that, the payment of compensation has been made by the 2nd respondent on 16.05.2020, 26.05.2020 and 12.08.2020. These payments have been made i.e. compensation has been disbursed only after the interim order passed by this Court dated 10.02.2020 which has been served on the 2nd respondent sometime in February 2020 itself. Moreover, on 17.02.2020 the 1st respondent/District Collector has sent a written communication to the 2nd respondent that High Court has passed an order on 10.02.2020, accordingly necessary action shall be taken and



Cont.P.No.642 of 2020

report to be submitted to the 1st respondent/District Collector, some letter had been issued by the District Collector in the month of June 2020 also.

7. Therefore, having the knowledge of the interim order passed by this Court dated 10.02.2020, the 2nd respondent still went on disbursing the amount on three dates as mentioned above in May as well as in August 2020.

8. Insofar as this disbursement is concerned, it is in violation of the order passed by this Court dated 10.02.2020.

9. Therefore, the submissions made by the learned Senior Counsel appearing for the 2nd respondent that, such disbursement is only due to inadvertence and not intentional prima facie cannot be accepted by this Court. Also this Court feels that, the said disbursement, which has been made by the 2nd respondent, only after knowing well that the interim order passed by this Court is in operation and specifically the Court has given direction to the respondents therein especially the 2nd respondent, since who is the officer/competent authority in charge of disbursement of compensation, to deposit



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Cont.P.No.642 of 2020

entire amount in a Fixed Deposit in any Nationalised Bank in Chennai City in the name of the Registrar General of this Court initially for a period of one year and renewable automatically from time to time and the original receipt of the Fixed Deposit shall be handed over to the Registry of this Court under written acknowledgment until further orders. Despite this clear order was passed by this Court, since these disbursements were made, as stated supra, in May and August 2020 admittedly, this Court has no hesitation to prima facie hold that the 2nd respondent has deliberately violated the orders passed by this Court. Hence this Court wants the 2nd respondent to file an affidavit by way of show cause as to why contempt proceedings shall not be initiated against her under the provisions of the Contempt of Courts Act and such show cause by way of an affidavit shall be filed by the 2nd respondent during the next hearing date."

11. Subsequently the case came up for hearing on 25.01.2023 and on that date, a memo has been filed stating that as per the earlier order of the



Cont.P.No.642 of 2020

Court, though attempt has been made by the second respondent to get some more documents from the present District Revenue Officer, those documents have not been furnished except few documents. Therefore that hampered the second respondent in filing the affidavit by way of a show cause.

12. After hearing the learned Senior counsel appearing for the second respondent and other learned counsels, I have passed the following order on 25.01.2023.

"5. Therefore, based on the earlier statement filed in this regard by the 2nd respondent and after hearing the learned Senior Counsel appearing for the 2nd respondent, the contention made on behalf of the 2nd respondent that, the disbursements made was only due to inadvertence and not intentional, this Court held that the said plea cannot be accepted prima facie.

6. Further, it had been directed that the 2nd respondent has to file an affidavit by way of show cause as to why contempt proceedings cannot be initiated against her under the provisions of the Contempt of Courts Act, and such show cause by



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Cont.P.No.642 of 2020

way of affidavit shall be filed before this Court during the next date of hearing ie., today.

6. Insofar as the said show cause sought for from the 2nd respondent, this Court feels that the reason stated that remaining documents are yet to be received by her, in the present memo filed today, has nothing to do because, despite the interim order passed by this Court dated 10.02.2020, the disbursements since have been made by the 2nd respondent three times in May as well as August 2020, such kind of disbursements made despite the orders passed by this Court was in violation of the orders of this Court. Therefore, prima facie this Court is of the view that based on the same when a show cause was sought for, as to why the interim orders passed by this Court on 10.02.2020 has not been complied with, if at all the 2nd respondent has got any defence to be filed by way of show cause, she could have filed it, for which the non receipt of some of the documents as listed out in the present memo would not stand in the way.

7. Assuming that those documents are provided to the 2nd respondent, that would not in any way improve the case of the 2nd respondent insofar as



Cont.P.No.642 of 2020

the alleged violation of the orders passed by this Court dated 10.02.2020.

8. Therefore, this Court feels that the 2nd respondent shall file a show cause as directed by this Court in Para 9 of the order dated 04.01.2023 referred to above.

9. For the aforesaid purpose, since the learned Senior Counsel seeks a shorter accommodation till 31.01.2023. The said time is permitted. Hence, post the matter on 31.01.2023 at 02.15 P.M., for filing the show cause as directed herein above as well as the direction already given by this Court by order dated 04.01.2023 without fail."

13. Thereafter again the case came up for hearing on 31.01.2023 and on that date, the second respondent has filed an affidavit by way of show cause, inter alia where she has stated the following :

"3. I respectfully state and submit that I am tendering my unconditional apology before this Hon'ble Court for the perceived violation of the interim order dated 10.02.2020 which is neither wilful nor wanton and was by misconstruing the order of this Hon'ble Court in its implementation.



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Cont.P.No.642 of 2020

At the first instance I pray this Hon'ble Court with folded hands to please accept my unconditional apology and purge me out of the contempt proceedings.

4. I state that this Hon'ble Court by order dated 02.12.2022 had directed me to appear and file a detailed Report as to the basis on which I had disbursed the amount. The Hon'ble Court had heard the matter subsequently on 20.12.2022 and 22.12.2022. I had on 04.01.2023 filed a detailed report effectively reiterating the contentions on factual details as placed before this Hon'ble Court by the present incumbent of the post, being my successor in office. This Hon'ble Court in consideration of the Report held that prima facie there is violation of the interim order of this Hon'ble Court dated 10.02.2020 and directed me to show cause why further action should not be taken. In compliance of the same, I am filing this affidavit to place on record the material facts for the consideration of this Hon'ble Court. I have all through expressing my unconditional apology and requesting the Hon'ble Court to have a lenient view.

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Cont.P.No.642 of 2020

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10. I submit that in accordance with the procedure under the National Highways Act, the original land owners produced all the above documentary evidences before the Special Tahsildar (LA), NH, Kanchipuram for scrutiny. The Sub-Inspector of Survey, attached with the office of the Special Tahsildar (LA), NH, Kanchipuram perused the Registered Sale deeds and confirmed as to whether the area mentioned in the Registered Sale Deeds are under acquisition and the persons / claimants are eligible to receive the compensation. I submit that these individual claim petitions were scrutinized by me and satisfied myself prima facie that all the claim documents submitted would show that the lands for which they are seeking compensation does not fall within under OSR area. For further sanction of the same the said claim petitions were forwarded to the revenue department.

11. I humbly submit that thereafter, the report of the Sub-Inspector of Survey was perused by the Special Tahsildar (LA), Kanchipuram who



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Cont.P.No.642 of 2020

submitted proposals for sanction of payment compensation along with recommendation. This proposal has been examined by the office of the Special District Revenue Officer (LA), National Highways, Kanchipuram and was placed for my approval. Thereafter, I have perused above documents and approved the same and after verifying and confirming that the lands for which claim petitions have been by the individual land owners does not fall within the ambit of OSR lands.

12. Furthermore, to form a conclusive conclusion about the claims and the nature of lands, the comments of the registration department was also sought for. I humbly submit that the records of the Sub Registrar, Sriperumbudur and Revenue Records of Nemili-A village & Ayakolathur village of Sriperumbudur Taluk do not reflect the lands mentioned above in various survey numbers does not fall under notified OSR lands nor there were records from the registration and revenue records to such effect. Thus, only in the above factual background and confirming reports of the revenue and registration department to the effect that the



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Cont.P.No.642 of 2020

lands are standing in the name of the individuals, the apportionment of compensation was made to the individual claimants according to their land holdings.

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15. I humbly submit that the payment of compensation made to the claimants in respect of 46/3A part, 46/5A1 part, 46/5A3, 47/5A, 47/5B and 52/2 situated at Ayakolathur village, Sriperumbudur Taluk, Kancheepuram District village has been given as per R.C.No.143/2018 dated 15.03.2018 and payments were made from March 2020. With regard to these payments, I most humbly submit that the said compensations were made to the individual claimants only on the positive reports made available by the registration and revenue departments and such reports have made me to come to a reasonable conclusion that the said lands are standing in the individual land owners and does not fall under OSR lands.

16. I humbly submit that the payment of compensation made to the claimants in respect of



Cont.P.No.642 of 2020

land in present Survey Nos.46/3A2, 46/4A2, 46/4B2, 46/45A1B, 46/5B1B, 47/1, 47/3, 47/1B, 47/2, 47/3, 47/4A, 48/1, 48/2B, 48/3A2, 48/6A1A2, 51/6B, 51/7A2, 51/8A2, 51/9B, 51/10, 51/11, 51/12 and 52/1B situated at Ayakolathur village, Sriperumbudur Taluk, Kancheepuram District has been given as per R.C.No.147/2018 dated 08.01.2020. The payment of compensation has been made on 26.05.2020, 16.05.2020 and 12.08.2020 after the passing of the interim orders by this Hon'ble Court.

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18. I most humbly submit that the amounts were disbursed on the bonafide inadvertent belief that the interim order of this Hon'ble Court dated 10.02.2020 prohibited the 2nd respondent from disbursing compensation with regard to the OSR Lands. I respectfully submit that the writ petitioner's grievance was also to the effect that no compensation to be given to the OSR lands. I further submit that from the perusal of the records maintained in the offices of the concerned



jurisdictional Sub Registrar and the revenue records, it was seen that the same does not fall under OSR category. Only from the satisfaction of lands not falling under OSR lands and the claims of the private respondents otherwise in order, I have bonafidely proceeded to issue orders for release of compensation.

19. I most humbly submit that the order passed by this Hon'ble Court dated 10.02.2020 was misread and wrongly understood by me that this Hon'ble Court enjoined the official respondents from releasing compensation for the OSR lands. Such mistake was on an inadvertent reading of the judgment and the further affirmation from the fact that there were no notified or registered OSR lands either in the Revenue Records or in the office of the SRO, Sriperumbudur.

20. I most humbly submit that I have utmost respect for the majesty of this Hon'ble Court. I submit that I have joined the department of revenue on 23.08.1981 as Junior Assistant. Subsequent to my unblemished service I was promoted to Assistant in the year 1988. After my meritorious service of ten years as Assistant I was promoted to



WEB COPY



Cont.P.No.642 of 2020

the post of Deputy Tahsildar, youngest at the time in 1998. In 2006 I was promoted as Tahsildar. Thereafter I was promoted as Deputy Collector and in August 2015 I was posted as Special District Revenue Officer, National Highways, Kanchipuram. I served in the said post for five years and I was transferred to DRO / Joint Director in Tribal Welfare Department, Chennain in August 2020. Since December, 2022 I am working as Commissioner, Tribunal for Disciplinary Proceedings, Madurai.

22. I have dutifully obeyed and acted in deference to orders / directions of this Hon'ble Court. If any of my act / omission leads to conclusion that I have committed violation of the interim orders dated 10.02.2020 passed by this Hon'ble Court in WMP.No.3683 of 2020 in W.P.No.3177 of 2020, I tender my unconditional apology and same may kindly be accepted and the contempt proceedings as against me may kindly be dropped."

14. After having filed this affidavit, the learned Senior counsel appearing for the second respondent made submissions stating that, the



Cont.P.No.642 of 2020

disbursement of compensation were made on three dates, i.e., two dates in May and one date in August 2020, which are only after the orders of this Court, dated 10.02.2020, those payments made without the said amount being deposited in the Fixed Deposit in the name of the Registrar General of this Court as directed by this Court is a violation of the order of this Court, however due to wrong understanding of the order or due to inadvertence, such a violation had been taken place, for which the second respondent since tendered unconditional apology, she may be purged from the contempt proceedings and it may be dropped, was the submission made by the learned Senior counsel appearing for the second respondent.

15. However, this Court specifically at that time, when she appeared in the Court, asked as to whether she wanted to give or make any submissions to the Court, she had replied that she does not want to say anything and what has been stated or argued by the learned Senior counsel on behalf of her can be taken on record.

16. With that, the hearing was completed in the contempt petition and



Cont.P.No.642 of 2020

it was further posted “For passing Orders”.

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17. In this contempt petition, there are five respondents shown as alleged contemnors, however insofar as the respondents 3, 4 and 5 are concerned, who were working as Special Tahsildar (LA), National Highway Projects, Project Director, NHAI and Block Development Officer, Sriperumbudur Panchayat Union, they were not instrumental for such a disbursement of compensation amount made by the second respondent as the fourth respondent herein was only a Project Director of NHAI and the fifth respondent is the Block Development Officer and the third respondent is the Special Tahsildar, NH Projects who was the inferior officer no way would have been in tandem working with the second respondent for violating the orders of this Court by way of disbursing the compensation to various third parties, therefore, this Court feels that, the respondents 3, 4 and 5 are to be declared that they have not violated the orders of this Court, therefore they are purged from this contempt proceedings and this contempt petition against R3, R4 and R5 are to be closed.

18. Insofar as the first respondent, District Collector is concerned, he



Cont.P.No.642 of 2020

already filed a Sub.A.No.733 of 2022 in Cont.P.No.642 of 2020, where he had stated that, he was only to act as an Arbitrator within the meaning of Section 3G (5) of the National Highways Authority of India Act, 1956 and also under Section 3H (1), the amount determined under Section 3G shall be deposited by the Central Government in such manner before the competent authority and under Section 3(iv), the competent authority shall in turn disburse the compensation amount to the land owners. Therefore in all these actions, the role of the first respondent, District Collector is only an Arbitrator under Section 3G (5) of the Act and such stage since had not come in this case he had nothing to do with the compliance of the orders of this Court, dated 10.02.2020.

19. Further he had stated that, immediately on receipt of the copy of the order, dated 10.02.2020, on 17.02.2020, he had sent a letter to the second respondent communicating the copy of the order and directed her to comply with the order and report to the office of the first respondent.

20. All these aspects had been stated on behalf of the first respondent



Cont.P.No.642 of 2020

in the Sub Application, therefore having considered those aspects, this Court by order dated 25.01.2023 in Sub.A.No.733 of 2022 has passed an order stating that, the first respondent in the main contempt petition who is the petitioner in the sub application is struck off from the array of parties in the main contempt petition and his name is deleted. Accordingly to that extent, the said application was ordered.

21. Therefore, now the question is, whether the orders of this Court, dated 10.02.2020 made in the said W.M.P.No.3683 of 2020 in W.P.No.3177 of 2020 is violated by the second respondent, namely Tmt.Narmadha, the then Special District Revenue Officer, National Highways Project, Bangalore-Chennai Expressway, Kanchipuram District and if so, the said violation of the order of this Court or the non-compliance of the order of this Court, dated 10.02.2020 whether is a wilful disobedience within the meaning of section 2(b) of the Contempt of Courts Act, 1971 (in short “the Act” herein after) and if so, what punishment shall be inflicted on the second respondent.



Cont.P.No.642 of 2020

WEB COPY 22. It is to be noted that, on 10.02.2020, the learned Judge has passed a clear order stating that, it shall be ensured by the respondents 1 to 5 that, after determining the amount of compensation payable for that acquired land, the same is invested in an interest fetched Fixed Deposit in any Nationalised Bank in Chennai in the name of the Registrar General of this Court.

23. This order if it is to be complied with, after determination of the compensation payable to various individuals who claim the compensation in the lands which are claimed to be the OSR lands as per the stand of the writ petitioner, in respect of those compensation after having calculated the same, that shall be deposited in a Nationalised Bank in the name of the Registrar General of this Court.

24. This order has been passed on 10.02.2020 and it has been communicated to the respondents, including the second respondent on the very next day by the writ petitioner and subsequently, on 17.02.2020, the



Cont.P.No.642 of 2020

first respondent District Collector by specific letter in Na.Ka.No. 2988/2020/M5 had communicated the same to the second respondent and directed her to take proper action and report back to him and subsequently on 24.05.2020 similar letter had been issued by the writ petitioner and thereafter on his behalf, on 23.06.2020, detailed legal notice had been issued, therefore it cannot be claimed by the second respondent that, the orders have not been communicated or she did not have the knowledge of the order. In fact, such a plea had not been raised by the second respondent and she had admitted that she had the knowledge about the orders of this Court, dated 10.02.2020.

25. However the defence now taken by the second respondent is that, the perceived violation of the interim order, dated 10.02.2020 is neither wilful nor wanton and it was by misconstruing the order of this Court in its implementation. This Court by order, dated 02.12.2022, had directed the second respondent to appear and file a detailed report, as to on what basis she had disbursed the amount. After having considered the report already filed by her, this Court found that prima facie there is a violation of the



Cont.P.No.642 of 2020

interim order of this Court, dated 10.02.2020 and therefore directed her to show cause why further action should not be taken under the provisions of the Contempt of Courts Act, for such an action she has only stated that, she has all through been expressing her unconditional apology and requesting the Hon'ble Court to have a lenient view.

26. In para 10 of the affidavit of the second respondent, she has stated that, the individuals' claim petitions were scrutinised by her and she herself satisfied prima facie that, all the claim documents submitted would show that the lands for which they are seeking compensation does not fall within / under OSR area.

27. In para 11 of the same report, the second respondent has further stated that, she has perused the documents and approved the same and confirming the lands for which claim petitions have been filed by the individual land owners does not fall within the ambit of OSR lands.

28. In para 16 of the same affidavit, she has further stated that, the payment of compensation has been made on 26.05.2020, 16.05.2020 and



Cont.P.No.642 of 2020

12.08.2020 after passing of the interim orders by this Court.

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29. In para 18 of the same affidavit, she has further stated that, the amount was disbursed on the bonafide inadvertent belief that the interim order of this Court, dated 10.02.2020 prohibited the second respondent from disbursing the compensation with regard to the OSR lands.

30. In para 19 of the affidavit, she has further stated that, the orders passed by this Court, dated 10.02.2020 was misread and wrongly understood by her that this Hon'ble Court injuncted the official respondents from releasing the compensation for the OSR lands. She also claimed at para 20 of the affidavit that, she served in the said post for five years and transferred from there only in August 2020.

31. Therefore from the reading of the said averments made in the affidavit dated 31.01.2023 filed by the second respondent it clearly discloses that, the second respondent did have the knowledge of the order, dated 10.02.2020 and the order is very clear and unambiguous and what are all the lands claimed to be the OSR lands by the writ petitioner, the



Cont.P.No.642 of 2020

compensation insofar as the lands are concerned to be calculated and be deposited in the name of the Registrar General of this Court in a Nationalised Bank as a one year Fixed Deposit and that shall be renewed from time to time until further orders.

32. Therefore, what was ordered by this Court is to calculate the compensation for the alleged OSR lands and deposit in the name of the Registrar General in a Nationalised Bank. This order has been completely violated.

33. Now the defence taken by the second respondent to state that, she has misread the order, misconstrued the order or not properly understood the order or she has been enjoined from disbursing the amount for OSR lands was her understanding, are all a baseless defence taken by the second respondent.

34. The second respondent, who was a responsible officer, i.e., District Revenue Officer level official and who had been in the same post for



Cont.P.No.642 of 2020

five years, which is a long period as normally a Government servant would not be permitted to work for five years in a single post and since she has earned the knowledge in entirety of such land acquisition proceedings, she cannot plead ignorance, misconstruction or misreading the order of this Court.

35. If at all she finds something in the order of the Court which is capable of being misconstrued or misread or in case it is ambiguous or has not clearly conveyed any direction towards the officers concerned like the second respondent, the duty of the second respondent is to seek for a clarification through the Government counsel by filing an appropriate application before this Court. No such attempt has been taken and the second respondent on her own unmindful of the orders of this Court, has proceeded to disburse the amount on three dates not only in the month of May 2020 but also went up to August 2020, despite the repeated requests made by the writ petitioner and the direction issued by the District Collector stating that, the orders of this Court, dated 10.02.2020 shall be complied with.



Cont.P.No.642 of 2020

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36. This continuous action on the second respondent in disbursing huge amount to private persons who are otherwise not eligible to receive the compensation itself show that, with the complete knowledge of the order of this Court, the second respondent has violated it. Therefore it can very well be construed as a wilful disobedience of the orders of this Court within the meaning of section 2(b) of the Act.

37. Moreover one of the defence taken by the second respondent is that, the said amount paid to various individuals wrongly for the OSR lands have been recovered. It is to be noted that, such a recovery has been made now only pursuant to the orders passed by this Court directing the CBCID to take incharge of the investigation and they registered three cases, where investigation is going on and only pursuant to the direction issued by this Court, that amount has been recovered by the CBCID. Therefore that cannot be taken as a defence by the second respondent.

38. It is not a mere violation of the orders of this Court on the part of



Cont.P.No.642 of 2020

the second respondent, in fact it has a greater ramification to be looked into.

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39. Insofar as the investigation that was undertaken by the CBCID is concerned, on 04.01.2023, when the contempt petition came up for hearing, the learned Additional Advocate General appearing for the State / CBCID had reported that, out of the 20 crores paid by the second respondent towards compensation for OSR lands, 18 crores have been recovered, remaining 2 crores yet to be recovered and totally an amount of 39 crores had been disbursed, that is in respect of one crime number and in respect of another 2 crime numbers, further amount to the extent of 40 crores and 33 crores respectively had been disbursed.

40. Taking note of these contentions of the CBCID, as projected by the learned Additional Advocate General, on 04.01.2023, this Court, passed the following order :

"10. Insofar as the investigation being undertaken by the CBCID is concerned, Mr.P.Kumaresan, learned Additional Advocate General appearing for the said authority submitted that, Rs.18 Crores and odd already been recovered out of Rs.20



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Cont.P.No.642 of 2020

Crores which have been disbursed by the 2nd respondent. Insofar as the remaining Rs.2 Crores and odd, two persons had given some cheques to the extent of more than Rs.1 Crore, however those cheques since have been dishonoured, further action have been initiated against those persons and soon the remaining amount of Rs.2 Crores and odd would be recovered.

11. That apart, the learned Additional Advocate General would further submit that, it is not merely Rs.20 Crores and odd that has been disbursed for the lands which are already earmarked as OSR lands and it was totally an amount of Rs.39 Crores have been disbursed for the lands which have been earmarked as OSR. Therefore, in this regard further investigation is on and soon those amounts also to the extent of Rs.39 Crores would be recovered and in this regard, the learned Additional Advocate General would submit that, during the next hearing date what progress have been made by CBCID in investigating these matters and what amount have been recovered also would be ascertained and reported as further interim report to be filed on behalf of the CBCID.



Cont.P.No.642 of 2020

This according to the learned Additional Advocate General relates to Crime No.5 of 2021.

12. That apart, there are other two crime numbers viz., Crime No.2 of 2022 and 12 of 2021 in respect of which the amount involved is Rs.40 Crores and 33 Crores respectively and those matters also are under investigation of the said agency and those amounts are yet to be recovered, therefore insofar as the progress made in this regard also it would be ascertained and reported before this Court.

13. Recording the said submissions made by the learned Additional Advocate General, the CBCID is hereby directed to file further interim report as to the progress to be made in investigation as well as the recovery made in this regard as indicated above, during the next hearing date.

14. For the aforesaid purposes and for further hearing, post this contempt petition along with connected sub applications on 25.01.2023. The 2nd respondent shall remain present during the next hearing date."

41. On the one side investigation is going on at the hands of the CBCID, where atleast three cases were registered. The ramification of this



Cont.P.No.642 of 2020

scam disbursing several crores of rupees to various individuals or companies by way of compensation is huge. In respect of those compensation, the land shown by them or the documents produced in this regard on the re-registration of the same lands are the lands entrusted or handed over to the local bodies for the purpose of public utility as OSR lands. Therefore a large conspiracy definitely would have been hatched by a group of persons, with a result, huge amount of the money deposited by the National Highways Authority of India for the purpose of land acquisition is being swindled by various persons.

42. When that being so, the defence now taken by the second respondent that, she has scrutinised those documents and approved it and decided to disburse the compensation to the individual persons (who are in fact not at all eligible to receive the same) is not at all worthy to be considered as a defence.

43. This Court has already been informed that, in the case registered by the CBCID all these people including the second respondent have been



Cont.P.No.642 of 2020

arrayed as accused and the investigation is going on.

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44. Therefore, absolutely there can be no defence taken by the second respondent and in fact the violation of the orders of this Court, dated 10.02.2020 since has been admitted, the apology tendered by the second respondent cannot be accepted by this Court in view of the afore discussed facts and circumstances of the case.

45. So far as the jurisdiction of this Court in the Contempt of Courts Act is concerned, it is a peculiar and distinct jurisdiction for the Higher Courts who are declared to be court of records. Under Article 215 of the Constitution, every High Court shall be a court of record and shall have all the powers of such a court including the power to punish the contempt of itself.

46. In order to regulate the proceedings initiated under the Contempt of Courts Act, power and procedure of the Court in detail have been contemplated under the Contempt of Courts Act, 1971, where under section 2(a) of the Act, the “contempt of court” means civil contempt or criminal



Cont.P.No.642 of 2020

contempt. The civil contempt has been defined in sub-section (b) which means wilful disobedience to any Judgment, decree, direction, order, writ or other process of court or wilful breach of an undertaking given to a court.

47. Insofar as this case is concerned, since it is only a civil contempt, it must be proceeded in accordance with the provisions of the said Act as a civil contempt.

48. Section 12 deals with the punishment for contempt of court, where proviso to section 12(1) states that, the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.

49. Insofar as tendering apology is concerned, for accepting the same, the court must have the satisfaction to accept such apology, otherwise, the court can proceed to punish the contemnor if there has been a civil contempt within the meaning of section 2(b) of the Act.



Cont.P.No.642 of 2020

WEB COPY 50. Some of such contempt cases when came up for consideration before the Higher Courts, especially before the Hon'ble Supreme Court of India, the courts have taken the view that, the power under Contempt of Courts Act is conferred with the courts to uphold the majesty of the court, without which, in the eye of the public, if the violators of the court order are let off without being punished, it will tend to loose faith and confidence on the judiciary.

51. Some of the Judgments of the Highest Court of this land, where this kind of contempt petition are dealt with towards achieving the said goal, are pressed into service hereunder.

(a) In **AIR 1969 SC 189**, in the matter of **Debabrata Bandopadhyay and others v. State of West Bengal and another**, the Hon'ble Supreme Court has held as follows :

"9. A question whether there is contempt of court or not is a serious one. The court is both the accuser as well as the judge of the accusation. It behoves the court to act with as great



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Cont.P.No.642 of 2020

circumspection as possible making all allowances for errors of judgment and difficulties arising from inveterate practices in courts and tribunals. It is only when a clear case of contumacious conduct not explainable otherwise, arises that the condemner must be punished. It must be realised that our system of courts often results in delay of one kind or another. The remedy for it is reform and punishment departmentally. Punishment under the law of Contempt is called for when the lapse is deliberate and in disregard of one's duty and in defiance of authority. To take action in an unclear case is to make the law of contempt do duty for other measures and is not to be encouraged."

(b) In **Maninderjit Singh Bitta v. Union of India and others** reported in **(2012) 1 SCC 273**, the Hon'ble Supreme Court has held as follows :

"16. Now, we would examine certain principles of law which would normally guide the exercise of judicial discretion in the realm of contempt jurisdiction. 'Contempt' is an extraordinary jurisdiction of the Courts. Normally, the courts are



reluctant to initiate contempt proceedings under the provisions of the 1971 Act. This jurisdiction, at least suo moto, is invoked by the courts sparingly and in compelling circumstances, as it is one of the foremost duty of the courts to ensure compliance of its orders. The law relating to contempt is primarily dissected into two main heads of jurisdiction under the Indian Law: (a) Criminal Contempt, and (b) Civil Contempt. It is now well settled and explained principle under the Indian contempt jurisdiction that features, ingredients, procedure, attendant circumstances of the case and the quantum of punishment are the relevant and deciphering factors.

17. Section 12 of the 1971 Act deals with the contempt of court and its punishment while Section 15 deals with cognizance of criminal contempt. Civil contempt would be wilful breach of an undertaking given to the court or wilful disobedience of any judgment or order of the court, while criminal contempt would deal with the cases where by words, spoken or written, signs or any matter or doing of any act which scandalises, prejudices or interferes, obstructs or even tends to



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Cont.P.No.642 of 2020

obstruct the due course of any judicial proceedings, any court and the administration of justice in any other manner. Under the English Law, the distinction between criminal and civil contempt is stated to be very little and that too of academic significance. However, under both the English and Indian Law these are proceedings sui generis.

...

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...

20. In exercise of its contempt jurisdiction, the courts are primarily concerned with enquiring whether the contemnor is guilty of intentional and wilful violation of the orders of the court, even to constitute a civil contempt. Every party to lis before the court, and even otherwise, is expected to obey the orders of the court in its true spirit and substance. Every person is required to respect and obey the orders of the court with due dignity for the institution. The Government Departments are no exception to it. The departments or instrumentalities of the State must act expeditiously as per orders of the court and if such orders postulate any schedule, then it must be



WEB COPY



Cont.P.No.642 of 2020

adhered to. Whenever there are obstructions or difficulties in compliance with the orders of the court, least that is expected of the Government Department or its functionaries is to approach the court for extension of time or clarifications, if called for. But, where the party neither obeys the orders of the court nor approaches the court making appropriate prayers for extension of time or variation of order, the only possible inference in law is that such party disobeys the orders of the court. In other words, it is intentionally not carrying out the orders of the court. Flagrant violation of the court's orders would reflect the attitude of the concerned party to undermine the authority of the courts, its dignity and the administration of justice.

...

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...

34. Having found them guilty under the provisions of the 1971 Act and under Article 129 of the Constitution of India, we punish the Secretary, Transport and Commissioner, State Road



Cont.P.No.642 of 2020

Transport Authority of the State of Haryana as under :

i) They are punished to pay a fine of Rs.2,000/- each and in default, they shall be liable to undergo simple imprisonment for a period of fifteen days;

ii) We impose exemplary cost of Rs.50,000/- on the State of Haryana, which amount, at the first instance, shall be paid by the State but would be recovered from the salaries of the erring officers/officials of the State in accordance with law and such recovery proceedings be concluded within six months. The costs would be payable to the Supreme Court Legal Services Committee.

iii) In view of the principle that the courts also invoke contempt jurisdiction as a tool for compliance of its orders in future, we hereby direct the State Government and the respondent / contemnor herein now to positively comply with the orders and implement the scheme within eight weeks from today."

(Emphasis supplied)

(c) In **C.Elumalai and others v. A.G.L.Irudayaraj and others** reported in **(2009) 4 SCC 213**, the Hon'ble Supreme Court has held as



Cont.P.No.642 of 2020

follows :

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"7. On consideration of various aspects, we are satisfied that there has been a wilful and deliberate violation of this Court's order. We, therefore, in exercise of the Court's jurisdiction under Article 129 of the Constitution of India impose exemplary costs of Rs.2,00,000 on each of the contemnors to be deposited to the Registry of the High Court within a period of eight weeks.

On deposit being made, the amount shall be transferred to the National Legal Services Authority. In case of non-payment, the contemnors shall undergo simple imprisonment for three months each. Any third-party right created after order dated 19.03.2007 is of no consequent and stands set aside."

(d) In **Ram Kishan v. Tarun Bajaj and others** reported in (2014) 16

SCC 204, the Hon'ble Supreme Court has held as follows :

"11. The contempt jurisdiction conferred onto the law courts power to punish an offender for his wilful disobedience/contumacious conduct or obstruction to the majesty of law, for the reason



that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizens that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but that by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi- criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt."

(Emphasis supplied)

(e) In **Anil Ratan Sarkar and others v. Hirak Ghosh and others** reported in **(2002) 4 SCC 21**, the Hon'ble Supreme Court has held as follows :

"15. It may also be noticed at this juncture that mere disobedience of an order may not be sufficient to amount to a "civil contempt" within



WEB COPY



Cont.P.No.642 of 2020

the meaning of Section 2(b) of the Act of 1971 - the element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act and lastly, in the event two interpretations are possible and the action of the alleged contemnor pertains to one such interpretation - the act or acts cannot be ascribed to be otherwise contumacious in nature. A doubt in the matter as regards the wilful nature of the conduct if raised, question of success in a contempt petition would not arise."

(f) In **Rama Narang v. Ramesh Narang and others** reported in **2021 SCC Online SC 29**, the Hon'ble Supreme Court has held as follows :

"49. It would be apposite to refer to Section 2(b) of the Contempt of Courts Act, 1971 which reads thus:-

"2. Definitions. -

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court."



50. It is thus clear that for bringing an action under the ambit of civil contempt, there has to be a wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to the court."

(g) In **Re : Perry Kansagra Contemnor**, reported in **2022 SCC Online SC 1516**, in a Suo-Motu Contempt Petition, the Hon'ble Supreme Court has held as follows :

"30. We have already convicted Perry Kansagra for contempt. The above referred facts are mentioned only to demonstrate that the contemnor has deliberately and with a clear intention committed egregious acts of contempt. These acts constitute willful disobedience of the judgment, direction and order of this Court coupled with willful breach of the undertaking given by the Court which constitute civil contempt. The contemnor has falsely represented before the foreign jurisdiction that Indian Courts have not sought the consent of Aditya and that the decision of the Supreme Court of India is unenforceable. These acts clearly lower the authority of this Court. We have also indicated



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Cont.P.No.642 of 2020

that the contemnor has interfered with the due course of judicial proceedings and obstructed the administration of justice which is a clear case of criminal contempt.

31. In the circumstances and in order to mention the majesty of law, we must impose upon adequate punishment on the contemnor. We have also noted that the contemnor never showed any remorse or tender any apology for his conduct.

32. For the reasons stated above, we direct that the contemnor be:

a) Punished with simple imprisonment for a term of six months for civil contempt of Court for his acts of deliberate and willful disobedience of the orders passed by this Court and to pay a fine of Rs. 12,50,000/- (Twelve Lakhs Fifty Thousand), in default he shall further undergo simple imprisonment for one month.

b) Punished with simple imprisonment for a term of six months for criminal contempt of Court for obstructing the administration of Justice and lowering the authority of this Court and to pay a fine of Rs. 12,50,000/- (Twelve Lakhs Fifty



Thousand), in default he shall further undergo simple imprisonment for one month."

(h) In **Ajay Kumar Parasaramka v. Pradeep Kumar Rath** reported in **2022 SCC Online AP 817**, the High Court of Andhra Pradesh, has held as follows :

"33. As discussed above, and in view of the findings recorded by this Court in the above paragraphs, Respondent No.7 - Tahsildar is liable for punishment as per Section 12 of the Contempt of Courts Act, 1971, and thereby he is punished sentencing him to undergo simple imprisonment for a term of six (06) months and to pay a fine of Rs.2,000/- (Rupees two thousand only). In the event of failure to pay fine of Rs.2,000/-, Registrar (Judicial) is directed to send copy of the order to the District Collector, Visakhapatnam for recovery of amount of fine under the Andhra Pradesh Revenue Recovery Act, 1864 and by following procedure as per law.

34. In the result, contempt case is partly allowed, directing Respondent No.7 - Tahsildar, Gajuwaka



Mandal, Visakhapatnam District to undergo simple imprisonment for a term of six (06) months and to pay a fine of Rs.2,000/- (Rupees two thousand only). In the event of failure to pay fine of Rs.2,000/-, Registrar (Judicial) is directed to send copy of the order to the District MSM,J CC No.947 of 2021 Collector, Visakhapatnam for recovery of amount of fine under the Andhra Pradesh Revenue Recovery Act, 1864 and by following procedure as per law.

35. Respondent No.7 - Tahsildar, Gajuwaka Mandal, Visakhapatnam District is directed to appear before the Registrar (Judicial), High Court of Andhra Pradesh, on 18.04.2022. On his appearance, the Registrar (Judicial) shall commit him to civil prison in accordance with the order passed above."

52. Therefore the law courts held that, the contempt jurisdiction is the powerful weapon in the hands of the higher judiciary, therefore it should be cautiously exercised. The disobedience within the meaning of section 2(b) must be wilful in nature. The mere pendency of the main case or suit would



Cont.P.No.642 of 2020

not stand in the way to proceed with the contempt in case if the orders during the interregnum passed by the Court is violated. The Government authorities are instrumentalities of the State or the Administration since being also one of the litigant or party before a lis, against whom if any order passed by the Court, if it is violated, certainly those officials concerned of the Government or the employee or staff are liable to be punished under the provisions of the Contempt of Courts Act.

53. Therefore in order to uphold and protect the majesty of this Court, it become incumbent on the part of this Court to ensure that, no orders of this Court is wilfully disobeyed or violated. If it is not ensured, the faith and confidence that the ordinary public of this great nation having in this judiciary would get shattered.

54. If the order passed by the Court is not obeyed and such disobedience even after knowing well that is wilful in nature and even then, if no corrective measures are taken by the Court, for which purpose alone the Contempt of Courts Act has been enacted, under which the power is



Cont.P.No.642 of 2020

vested with the higher courts, like High Court and Supreme Court, of course in consonance with the relevant provisions of the Constitution, then it would be a failure on the part of the judiciary.

55. If such a situation continues in many matters, as a routine procedure, to accept such a lame excuses to be made by the violators, who disobeyed the orders wilfully, in the name of apology or unconditional apology, that would be construed as a weakness of the Court without any such status really is prevailing.

56. Such a situation naturally would tend to make a negative impression in the minds of the general public as to the majesty and dignity of the Court.

57. We all very often state that the Courts are the last asylum for both haves and have nots, poor and rich and also the person who is in the high pedestal as well as the ordinary citizen of this Country who is in the lowest helm of the social pattern. Therefore, such a last asylum must always be



Cont.P.No.642 of 2020

WEB COPY

functioning with its wisdom, majesty, dignity and with a capacity to uphold the rule of law.

58. Here, the case where, an officer in the rank of District Revenue Officer, who has been in the post of land acquisition authority for a huge National Highways Project for five years, has wilfully disobeyed the orders of this Court. By her action in disbursing the compensation to undeserving persons who in fact have involved in a crime as against whom criminal cases already been registered and pending investigation at the hands of the CBCID, thereby a challenge has been posed by the second respondent contemnor to the majesty of this Court that, "whatever order the Court may pass I will not obey and knowingly I will disobey".

59. This kind of attitude of an Officer of the State would not augment well to have a people oriented and responsive administration. After having committed this wilful disobedience, if she comes forward to tender an apology with a prefix “unconditional”, and if that is accepted by this Court, certainly that will set a unpleasant bad precedent, as many such persons like



Cont.P.No.642 of 2020

the second respondent certainly would violate the orders of this Court knowingly or wilfully with a confidence that whatever violation we make wilfully and whatever disobedience we make that will not affect them, as they can easily escape from the clutches of law by mere asking an apology with a prefix “unconditional”. That kind of impression one must not have in their mind.

60. Therefore the action to be taken in this regard by this Court must convey a message to all such violators who wilfully disobey the orders of this Court. Ergo this Court is not accepted the so called unconditional apology tendered by the second respondent for her wilful disobedience. Hence she is deserved to be punished under the provisions of the Contempt of Courts Act.

61. With the result, the following orders are passed in this Contempt Petition :

(a) The second respondent, namely Mrs.K.Narmadha, who was then working as Special District Revenue Officer (Land



Acquisition), National Highways Project, Bangalore to Chennai Expressway, Kanchipuram, Kanchipuram District, is guilty of a Civil Contempt in wilfully disobeying the orders of this Court as discussed above.

(b) Result of which, this Court impose a punishment of imprisonment for one month. Therefore she shall be detained in a Civil prison for the said period of one month.

(c) In respect of the other respondents, namely 3, 4 and 5, this Contempt Petition is dismissed.

62. Accordingly, this Contempt Petition is disposed of. Consequently, connected sub applications are closed.

04.08.2023

Index : Yes

Speaking Order

Neutral Citation : Yes / No

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WEB COPY



Cont.P.No.642 of 2020

R.SURESH KUMAR, J.

tsvn

2020

**Cont.P.No.642 of
and Sub.Apppln.Nos.303 of
2020, 390 of 2020
and 723 of 2022**

04.08.2023

72/72