



Cont.P.No.822 of 2018

IN THE HIGH Court OF JUDICATURE AT MADRAS

Dated : 23.02.2023

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Cont.P.No.822 of 2018

&

Sub.Appl.Nos.305 & 306 of 2018

&

Sub.Appl.Nos.577, 579 & 580 of 2018

in

C.M.P.No.12698 of 2016

in

S.A.No.679 of 2016

Deivika Thirumughan Pasumpon
Muthuramalinga Thevar Educational
Development Arakkattalai
by its Secretary
A.R.Loganathan,
No.192, Kodangaiyur,
Tondaiyarpeth High Road,
Kodangaiyur,
Chennai – 600 118.

... Petitioner

Vs.

1.The Collector,
Chennai District,
Rajaji Salai,



Cont.P.No.822 of 2018

Chennai 600 001.

2.Mr.Murugesan

3.Mr.Alagu Pandian

... Respondents

Prayer: Contempt Petition is filed to punish the respondents herein for their willful disobedience of the order of this Hon'ble Court dated 18.08.2016 made in C.M.P.No.12698 of 2016 in S.A.No.679 of 2016.

For Petitioner : Mr.V.Raghavachari
Senior Counsel
for Mr.B.K.Sreenivasan

For Respondents : Mr.M.R.Gokulakrishnan
1 and 2

For Respondents 3 : Mr.R.Kannan.

ORDER

The above Contempt Petition has been filed alleging disobedience of the order of this Court passed in C.M.P.No.12698 of



Cont.P.No.822 of 2018

2016 in the Second Appeal No. 679 of 2016 by the respondents.

WEB COPY

2. The above Civil Miscellaneous Petition was filed for an interim injunction restraining the respondents, namely, the Collector and the Tahsildar, their men, agents, servants etc., from interfering with the petitioner's possession and enjoyment of the property subject matter of the suit O.S.No.7266 of 2011 on the file of the V Assistant City Civil Court, Chennai.

3. On 18.08.2016, this Court was pleased to direct the respondents, namely, the Collector, the Tahsildar to maintain status quo as on the said date. Thereafter, it appears that the petitioner had filed a Contempt Petition in Cont.P.No.522 of 2017 alleging that a construction was being carried out despite orders of status quo. This Contempt Petition came to be closed by orders dated 10.08.2017.



Cont.P.No.822 of 2018

Thereafter, on 16.02.2018, notice has been issued by the petitioner to the respondents stating that there is a violation of the interim orders of this Court. Though the said notice has been received by the contemnors on 19.02.2018, the construction continued. Therefore, the petitioner has come forward with the present Contempt Petition.

4. Originally the Contempt Petition has been filed only against the second respondent, the Tahsildar. Thereafter, on 27.08.2018 this Court had directed the other parties who are not parties in the Contempt Petition or Second Appeal to be impleaded.

5. In the counter filed by the third respondent on 11.06.2018, it is stated that the land which is the subject matter of the suit had been transferred to the Welfare Department vide Government Order dated 28.02.2011. On 18.06.2011, the possession was handed over by the Revenue Inspector of Fort – Tondiarpet, Taluk for construction of



Cont.P.No.822 of 2018

Adi Dravidar Students Hostel. All these transpired much before the filing of the Second Appeal by the petitioner herein.

6. It is also stated that challenging the said transfer, Writ petition had been filed by the petitioner in the name of M/s.Balar Nursery and Primary School in Writ petition No.27330 of 2012 and it was dismissed on 11.09.2015. The construction of the compound wall around the complex and the construction work of the Hostel at the ground floor ceiling level had taken place by 25.06.2016.

7. The petitioner has not impleaded the third respondent in the appeal proceedings or in the Civil Miscellaneous Petition for injunction. The injunction has been passed only against the first and second respondents and is not against the third respondent who is



Cont.P.No.822 of 2018

now in possession of the property and who has been putting up construction.

8. From the status report dated 22.12.2022, it is seen that Manickam claiming to be a correspondent of a School, in the name and style of Pasumponnar Doctor Kalaignar Balar Palli, had encroached into 73.5 cents of land in Survey No. 98 part and 99 part, Kodungaiyur Village, where he was running a School under the said name from the year 1989. This survey number correlates to T.S.Nos.2 part and 3 part of Block No.43, Kodungaiyur Village.

9. The properties are described as Government poromboke land. The said Manickam had approached the Government for leasing out a portion of this land. But the said request was rejected by the Government. Thereafter, action was initiated to evict the encroacher who then filed OS.No.4561 of 1989 for an injunction.



Cont.P.No.822 of 2018

The suit was decreed on 28.02.1996 against which the Collector had filed A.S.No.142 of 1998. While the first appeal was pending, the Special Commissioner of Revenue Administration was requested to grant a lease of land to the encroacher after the disposal of the cases as the appellant continued to encroach the land.

10. Thereafter, the appeal filed by the Government in A.S.No.142 of 1998 was allowed with cost. Consequent to this, the Government decided that allowing the encroacher to continue to squat on the property set a wrong precedent and therefore proceedings were initiated to evict the petitioner and the District Collector was directed to collect the lease rent and municipal tax from the year 1989 till the date of the removal of encroachment. Thereafter, the second respondent had issued a demand notice dated 04.06.2004 to the School. The total demand of the arrears of the



Cont.P.No.822 of 2018

lease rental was a sum of Rs.64,01,638/-. Out of this, the School had only remitted a sum of Rs.2,00,000/- and the balance is a sum of Rs.62,01,638/-. In order to carry out the eviction of the encroachment, the children were transferred to other Schools and the School had become defunct several years ago.

11. That apart, the said Manickam had sold 20 cents of the land to a third party in the name of the School. The status report would also state that on 18.06.2011, the encroached portion of 73.5 cents had been resumed and from out of this 73.5 cents (2369.5 Sq. meters = 25505 Sq. ft.) was handed over to the District Adi Dravidar Welfare Office on 18.06.2011 itself.

12. Meanwhile, the suit filed by the School in OS.No.726 of 2011 was dismissed by Judgement and Decree dated 26.02.2014. The appeal filed against the said order was also dismissed on



Cont.P.No.822 of 2018

22.01.2015, against which the present Second Appeal has been filed.

Despite knowing that the Adi Dravidar Welfare Board had taken possession of the suit property and was constructing their upon, the petitioner had not deemed it fit to implead them as a party. Therefore, they would contend that they have been totally unaware about the proceedings and they had no intention to disobey the orders of the Court

13. Mr.V.Raghavachari, leared Senior Counsel appearing for the petitioner would submit that the third defendant who is now putting up construction had been put on notice and was very much aware about the interim orders of this Court. Despite having knowledge, the third respondent had proceeded to put up construction. They had also been informed about the said interim order. The learned senior counsel would submit that the third respondent is very much aware about the proceedings in appeal



Cont.P.No.822 of 2018

which is against the suit filed for an injunction and had thereafter acted in contempt of this order. He would therefore pray that the respondents be punished for contempt.

14. The learned Government Advocate appearing on behalf of the respondents would reiterate the contents of the status report and counter and submitted that the respondents are not guilty of committing contempt in as much as the third respondent, who is presently in possession has not been made a party in the Civil Miscellaneous Petition and consequently the injunction order is not binding upon him.

15. He would submit that after taking possession, the third respondent has put up compound wall on all sides and commenced construction of the building much before the interim orders were passed by this Court. He would submit that the respondents who



Cont.P.No.822 of 2018

have highest regard for the Court have not flouted any orders of this Court. He would further submit that in any case, if the Court feels that they have committed an aberration, they tender their unconditional apology.

16. Heard the learned counsels and perused the records. The records would clearly indicate that the third respondent is not a party to the interim orders in C.M.P.No.12698 of 2016. It is also seen that the petitioner was aware about the transfer in favour of the third respondent since the petitioner in the name of M/s.Balar Nursery and Primary School had filed W.P.No.27330 of 2012 questioning the transfer and the said Writ Petition had been dismissed on 11.09.2015.

17. None of these facts have been brought to the notice of the Court when the petitioner had obtained an interim orders. Therefore,



Cont.P.No.822 of 2018

the interim orders have been obtained by suppression of facts. It is also stated that the compound and the construction up to the ground floor ceiling level has been concluded as early as on 25.06.2016, much before the interim orders in C.M.P.No.12698 of 2016 had been passed. Further, the injunction is only against the respondents one and two and the third respondent is not a party to the injunction order. The petitioner has not been able to make out a case that the 1st and 2nd respondents who are the parties to the interim orders had put up construction. On the contrary, it is the third respondent against whom there is no interim order, who has put up the construction after obtaining the requisite permission from the various authorities.

18. In view of the above, this Court hold that the petitioner has not been able to prove any contempt and consequently the Contempt



Cont.P.No.822 of 2018

Petition is dismissed. Consequently, the connected Sub Applications are closed. No costs.

WEB COPY

23.02.2023

Internet : Yes/No
Index :Yes/No
Speaking / Non-Speaking
kan

P.T. ASHA. J,



WEB COPY



Cont.P.No.822 of 2018

kan

Cont.P.No.822 of 2018

23.02.2023