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Cont.petr.No.1287 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.07.2023**

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

Contempt Petition No.1287 of 2023

Thiru.S.Naren

...

Petitioner

...Vs...

1. Gangadeep Singh Bedi, I.A.S.
The Commissioner,
Chennai City Municipal Corporation,
Chennai- 600 003.

2. Mr.Basker
The Zonal Officer, Zone XII
No.1, New Street, Alandur,
Chennai- 600 016.

3. Mr.Ramamurthy,
The Assistant Executive Engineer,
Ward No.161, Zone XII
Greater Chennai Corporation,
Chennai- 600 016.

4. R.Balaji Premraj

....

Respondents

Prayer: Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents 1 and 2 for having willfully disobeyed the order dated 31.01.2023 passed by this Court in W.P.No.2469 of 2022.



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For Petitioner : Ms.R.Rajini
For Respondents : Mr.D.B.R. Prabhu (R1 to R3)
Standing Counsel

ORDER

This contempt petition is filed alleging non compliance of the order passed by the Division Bench on 31.01.2023 in W.P.No.2469 of 2023.

2. When the matter was taken up for hearing, it was represented by the learned Standing Counsel appearing for the Respondents 1 to 3 that pursuant to the orders of this Court dated 31.01.2023, the official respondents have taken steps by issuing a Show Cause Notice dated 22.05.2023 and also demolition notice on 06.06.2023.

3. In view of the above submission made by the learned Standing Counsel for the Chennai Corporation, this Contempt Petition is closed. In case, any Appeal is filed before the Respondent concerned, the same shall be heard on a day-to-day basis, without the appeal being adjourned beyond seven working days at any point of time and dispose of within three months. It is made clear that if the unauthorised/illegal construction is identified and allowed to stand, the authorities concerned shall initiate



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disciplinary proceedings for major misconduct and impose major punishment against the officials responsible for removal of unauthorised/illegal construction, as it is their duty to remove the same, and bring the disciplinary proceedings so initiated, to its logical conclusion. Needless to state that adverse entries shall be made in service records of the erring officials.

4. In *Priyanka Estates International Pvt. Ltd. v. State of Assam*, reported in (2010) 2 SCC 27, the Supreme Court declined the appellant's prayer for directing the respondents to regularize the illegal construction and observed as follows:

“It is a matter of common knowledge that illegal and unauthorised constructions beyond the sanctioned plans are on rise, may be due to paucity of land in big cities. Such activities are required to be dealt with by firm hands otherwise builders/colonisers would continue to build or construct beyond the sanctioned and approved plans and would still go scot-free. Ultimately, it is the flat owners who fall prey to such activities as the ultimate desire of a common man is to have a shelter of his own. Such unlawful constructions are definitely against the public interest and hazardous to the safety of occupiers and residents of multi-storeyed buildings. To some extent both parties can be said to be equally responsible for this. Still the greater loss would be of those flat owners whose flats are to be demolished as compared to the builder.”

5. In yet another decision pertaining to buildings constructed in violation



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of rules, in the case of ***Shanti Sports Club v. Union of India*** reported in ***(2009)***.

15 SCC 705, the Supreme Court has held as under:

"This Court has, from time to time, taken cognizance of buildings constructed in violation of municipal and other laws and emphasised that no compromise should be made with the town planning scheme and no relief should be given to the violator of the town planning scheme, etc. on the ground that he has spent substantial amount on construction of the buildings, etc.

Unfortunately, despite repeated judgments by this Court and the High Courts, the builders and other affluent people engaged in the construction activities, who have, over the years shown scant respect for regulatory mechanism envisaged in the municipal and other similar laws, as also the master plans, zonal development plans, sanctioned plans, etc., have received encouragement and support from the State apparatus. As and when the Courts have passed orders or the officers of local and other bodies have taken action for ensuring rigorous compliance with laws relating to planned development of the cities and urban areas and issued directions for demolition of the illegal/unauthorised constructions, those in power have come forward to protect the wrongdoers either by issuing administrative orders or enacting laws for regularisation of illegal and unauthorised constructions in the name of compassion and hardship. Such actions have done irreparable harm to the concept of planned development of the cities and urban areas. It is high time that the executive and political apparatus of the State take serious view of the menace of illegal and unauthorised constructions and stop their support to the lobbies of affluent class of builders and others, else even the rural areas of the country will soon witness similar chaotic conditions."

6. A First Bench of this Court in Contempt Petition No.1769 of 2015 and Contempt Petition No.2166 of 2015 (Suo motu), took up a matter pertaining to demolition of the violated portions of a building and insisted that the



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unauthorised constructions are decimated. Relevant portion of the said order

reads thus:

"4. We have also perused the report of the Commissioner, who is present in Court. We have impressed upon him the importance of ensuring that there is at least no continuing unauthorised construction by issuing stop work notices immediately when such unauthorised construction is detected rather than waiting for comparison of the plans. We have also emphasised the importance of:

(a) Checking the buildings from the basement, ground floor onwards, so that the set backs are adhered to;

(b) Ensure that the on-going construction complies with the norms;

(c) The delinquent officers are brought to book not by mere censure, stoppage of increment, but by more severe consequences like compulsory retirement and dismissal from service. We say so, as despite, mammoth amount of unauthorised construction, we are informed that not a single person has suffered the punishment of dismissal from service or even compulsory retirement atleast for the last five years.

Not to let any unnecessary interference with his work by the persons, who have nothing to do with his job and that he should be able to do his task without fear or favour, for which necessary Court protection is available."

7. The officials shall also follow the dictum of this Court in *W.P.*

No.28143 of 2021 dated 27.01.2022 (S.Vaidyanathan,J and D. Bharatha

Chakravarthy,J.) in its letter and spirit.

**[S.V.N,J.,] [R.H,J.,]
11.07.2023**

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