



WEB COPY



Cont.P.Nos.1684 and 1788 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

Cont.P.Nos.1684 and 1788 of 2023

A.Chandra

..Petitioner in both the Cont.P.s

Vs.

1.Balakumar

2.Ramachandran

3.Vijayabhaskar

... Respondents in both the Cont.P.s

Common Prayer: Contempt Petitions filed under Section 11 of the Contempt of Courts Act, to punish the respondents for the non-compliance of the order dated 18.11.2022 passed in W.P.Nos.27153 of 2019 and 7894 of 2021.

For Petitioner : Mr.D.Yogeswran

For Respondents : Mr.G.T.Subramanian, Standing Counsel



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COMMON ORDER

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Claiming that the order dated 18.11.2022 made in W.P.Nos.27153 of 2019 and 7894 of 2021 have not been complied with, the petitioner has come up with this contempt petition.

2. The operative portion of the order reads as follows:-

7. There is also a direction to the Corporation to take proper action to demolish the unauthorised portion. In fact the Original Owner, viz. the fifth respondent had taken a plea that the builder has sold portions of the land without her knowledge, that is a question that is to be decided in the Civil suit. The fact that the Original owner fifth respondent entered into a Joint Development Agreement with the sixth respondent is admitted. The said Joint Development Agreement provides for construction of stilt, ground plus two floors. Therefore, we have very great suspicion in accepting the claim of the land owner that she was unaware of anything. However, considering the fact that the Government has not taken note of the fact that at least one flat belonging to one of the petitioners is situate within the approved area. We set aside the order of the Government and permit the petitioners to file applications under Sub Section 3 of Section 56 of the Tamil Nadu Town



and Country Planning Act, seeking retention of the building. The Authority will consider the same in the light of the Prevailing Development Control Rules. If the building is permissible as per the Prevailing Development Control Rules, no further enforcement action shall be taken till the conclusion of the Civil dispute between the parties.

3. It is the case of the petitioner that the writ petitioners viz., Mr.A.Suresh and Mr.C.Dhinesh have not filed an application under Section 56(3) of the Tamil Nadu Town and Country Planning Act as directed by us in the order dated 18.11.2022.

4. Mere non-filing of the application will not provide a cause for contempt. It is open to the petitioner to have recourse to the provisions of the Tamil Nadu Town and Country Planning Act to have unauthorized portion of the building removed.

5. With the above observations, this Contempt Petition is **dismissed.**



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(R.S.M.,J.) (K.B.,J.)
08.09.2023

dsa
Index : No
Internet : Yes
Neutral Citation : No
Speaking Order



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R.SUBRAMANIAN,J.
and
K.KUMARESH BABU,J.

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