

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED: 27.04.2023****CORAM:****THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH****Cont.P.No.2384 of 2022****K.Hariyappan****.....Petitioner/Petitioner****Vs.**

1. Gaga Deep Singh Bedi,
The Commissioner,
Greater Chennai City Municipal Corporation,
Rippon Buildings,
Chennai 600 003.
2. Haripriya
The Junior Engineer,
Greater Chennai city Municipal Corporation,
Division No.140, Alandur Road,
Arulyampet, Chennai 600 097 Respondents/Respondents

Contempt Petition filed under section 11 of the Contempt of Courts Act, to punish the respondents for disobeying the order of this Court dated 31.03.2021 passed in WP No.32627 of 2019.

For Petitioner : M/s.Venkataswamy

For Respondents : Mr.R.Ramanlal
Additional Advocate General



Assisted by
M/s.P.T.Ramadevi,
Standing Counsel

ORDER

When the contempt came up for hearing on
13.04.2023, this Court passed the following order :-

This contempt petition has been filed on the ground that the order passed by learned Single Judge in W.P.No.32627 of 2019, dated 31.03.2021 has been violated.

2. The petitioner approached this Court and filed the writ petition on the ground that he is an agent under the legal heirs of one Munusamy and the said Munusamy filed a suit in O.S.No.447 of 2002 before the IV Assistant City Civil Court to declare that he is the sole and absolute owner of the shop that was situated in Survey No.62/1 and for consequential relief of permanent injunction restraining the Corporation from interfering with the peaceful possession and enjoyment of the property. An ex parte decree was passed in favour of the said Munusamy by judgment and decree dated 09.12.2003. After the demise of the said Munusamy, his legal heirs entered into a lease agreement with the petitioner on 05.11.2020 and the petitioner was running a tea shop.

3. The petitioner was not allowed to run the tea shop and hence, he filed the writ petition before this Court. The



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writ petition was disposed of by an order dated 31.03.2021 in the following terms:

"4. Admittedly, the suit was decreed in favour of one Munusamy in the year 2003 by the IV Assistant City Civil Court in O.S.No.447/2002 and this petitioner has also entered into lease agreement with the legal heirs of the late Munusamy on 05.11.2020. The decree passed by the competent Civil Court is not denied by the respondents. However, the respondents have stated that as against the *ex parte* decree, the Corporation has taking steps to file a petition to set aside the *ex parte* decree. Though the learned counsel for the respondents seeks time to get further instructions, this Court is not inclined to grant time, as the respondents have filed counter affidavit wherein they have admitted that a decree was passed in favour of Munusamy.

5. In view of the above, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed."

4. The grievance that has been expressed by the petitioner in this contempt petition is that the Corporation had put up a grill gate and kept the shop under lock and key in a highhanded manner. In spite of the representation made by the petitioner on 11.03.2022, the Corporation did not choose to remove the grill gate and lock. This has resulted in effectively preventing the petitioner from running the tea shop. It is, on this ground, the present contempt petition was filed before this Court.



5. An affidavit has been filed on behalf of the Corporation. There is absolutely no denial about the grill gate that has been put up and the same being kept under lock and key. The respondents are once again reiterating the same stand that was taken in the writ petition and justifying their act. It is also brought to the notice of this Court that the petition filed for setting aside the said ex parte decree is pending. In view of the same, it is clear that the decree that was passed in favour of Munusamy continues to be in force till date. It is now too well settled that an ex parte decree is as good as a decree passed after contest. Therefore, the respondents should not be under the impression that the ex parte decree will not bind them.

6. Towards the fag end of the order, learned Standing Counsel appearing on behalf of the Corporation submitted that the grill gate will be removed and the same will be reported before this Court during the next date of hearing.

In the light of the above, post this contempt petition under the caption 'for reporting compliance' on 27.04.2023. If the grill gate is removed, this Court will proceed to close the contempt petition. If the respondents continue to take the very same stand, this Court will pass consequential orders in the contempt petition.

2. When the matter was taken up for hearing today, the



learned Additional Advocate General appearing on behalf of Chennai Corporation submitted the compliance report filed on behalf of the Corporation of Chennai. The relevant portions in the compliance report are extracted hereunder :-

5. *I humbly submit that based on the orders passed by this Hon'ble Court, the grill gate was removed as on 24.04.2023 at 10 a.m. With the presence of the officials of this respondent. The photos are enclosed along with this report.*

6. *I respectfully submit that I have got highest regard and respect to this Hon'ble Court and the orders passed by this Hon'ble Court. I have great regards and respect always to implement the orders passed by this Hon'ble Court. In any event if this Hon'ble Court views that I have violated the orders in any manner I humbly pray for an unconditional apology without any reservation whatsoever from this Hon'ble Court.*

3. The learned Additional Advocate General also pointed out to the photographs that have been filed along with the compliance report. It is seen from the report that the grill gate was removed on 24.04.2023.



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4. In view of the above development, the compliance is recorded. This contempt petition stands closed. It is made clear that insofar as the right that is claimed by the Corporation, it is left open to them to proceed in accordance with law.

27.04.2023

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