



Cont.petr.No.2287 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.11.2023**

CORAM:

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

Contempt Petition No.2287 of 2023

P.Marappan

...

Petitioner

...Vs...

R.Sekar
The Commissioner
Tiruchengode Municipality
Tiruchengode-637211

...

Respondent

Prayer: Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent herein for wilful disobedience of the order dated 10.01.2023 passed in W.P.No.1237 of 2020.

For Petitioner : Mr.T.Balaji
For Respondent : Mr.D.Ravichandran

ORDER

This contempt petition is filed alleging non compliance of the order passed by this Court on 10.01.2023 in W.P.No.1237 of 2020.

2. The learned counsel for the Respondent submitted that the



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following two conditions were imposed by this Court vide order dated

10.01.2023 in W.P.No.1237 of 2020:

- to inspect the property in question
- to take appropriate action for removal of unauthorised construction.

He further submitted that a civil suit in O.S.No.135 of 2011 was filed by the petitioner against his brother, with regard to partition and suppressing the same, the petitioner has approached this Court by way of writ petition. It is his further submission that on account of pendency of the aforesaid suit, the Municipality's hands are tied and therefore, they are not in a position to take appropriate action though there are violations in the construction. He further submitted that the authorities are going to issue lock and seal notice to the building in question and the authorities should not be taken to task by the Civil Court, on the ground that the authorities are interfering with the judicial proceedings.

3. The learned counsel for the petitioner submitted that it is incorrect to state that the petitioner has suppressed about the pendency of the civil suit, inasmuch as, he has categorically narrated the same in



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paragraph 4 of the affidavit filed in support of the Writ Petition. The learned counsel for the Petitioner further submitted that preliminary decree has been passed in favour of the petitioner in O.S.No.135 of 2011, on the file of the Sub Court, Tiruchengode, against which, an Appeal has been preferred before the Principal District Judge, Trichengode and the same is transferred to the file of the Additional District Judge, Tiruchengode which has been taken on file in A.S.No.20/2020. According to the learned counsel, even though notice under Section 205 (3) of the Tamil Nadu District Municipalities Act, 1920, has been issued, no further steps have been taken by the Respondent and therefore, the Respondent is liable to be punished.

4. In response, the learned counsel for the Respondent would submit that it is incorrect to state that the authorities have slept over the matter. He further submitted that after issuance of notice under Section 205 (3), *ibid.*, proceedings continued, by issuing a notice dated 12.07.2023, for launching prosecution against the 2nd Respondent in the writ petition for the illegal construction and a fine of Rs.10,000/- was also imposed. He further submitted that the respondent Municipality has no objection for taking appropriate action and that its interest needs to be protected.



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5. Taking note of the submissions of both parties, more so, the admission of the Respondent that there is violation in the construction of the building, *de hors* the partition suit, it is open to the authorities to proceed in accordance with law and the action taken by the authorities may also be brought to the notice of the Additional District Judge, Tiruchengode or any other forum, so that the said Court can take note of the same while passing orders.

6. We expect the authorities to complete the proceedings within a period of four months from the date of receipt of a copy of this order. It is made clear that in case of non compliance of this order, it is open to the petitioner to re-open this contempt petition.

With the above observations, this Contempt Petition stands closed.



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**[S.V.N,J.] [R.H,J,]
20.11.2023**

**S.VAIDYANATHAN, J
and
R.HEMALATHA,J**

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