



Cont.P.No.1332 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Contempt Petition No.1332 of 2023

1. Mr.Khuzem M.Mamuwala
2. Mrs.Memuna A.Githam .. Petitioners

-VS-

1. Vinayaga Nagar Welfare Association
rep by its President, Mr.K.S.Sthalasayanam
Door No.177, Kutchery Road
Mylapore, Chennai 600 004

2. Mrs.Meenakshi Alagappan .. Respondents

Contempt Petition filed under Section 10 of the Contempt of Courts Act, 1971 praying to punish the respondents for willful disobedience of the order passed by the Hon'ble VII Assistant City Civil Court in O.S.No.3603 of 2003 dated 19.04.2004.

For Petitioners :: Mr.V.Ramesh
for M/s T.Thiyagarajan



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ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

The present contempt petition has been filed alleging willful disobedience of the order passed by the learned VII Assistant Judge, City Civil Court in O.S.No.3603 of 2003 dated 19.04.2004, on the ground that the respondents are preventing their access to the disputed lane.

2. We have perused the order passed by the civil Court, wherein the civil Court has observed that the road in respect of which the petitioners seek right to have access, is a public road under the maintenance of the local body. Though the petitioners state that this contempt petition is maintainable, this Court finds that it would be appropriate for the petitioners to approach the civil Court to enforce the decree of injunction by detention of the contemnors or by attachment of their property or by both, by resorting to Order XXI, Rule 32 of the Civil Procedure Code, which reads as follows:-

“32. Decree for specific performance for restitution of conjugal rights, or for an injunction.--(1) Where the party



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against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has willfully failed to obey it, the decree may be enforced in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction by his detention in the civil prison, or by the attachment of his property, or by both.

(2) to (5)

3. Therefore, giving liberty to the petitioners to file a petition under Order XXI, Rule 32 of the Civil Procedure Code, this contempt stands closed. It is made clear that the period of pendency of the contempt proceedings before this Court will stand excluded, if the petitioners are required to satisfy the civil Court on the question of limitation.

(S.S.S.R.,J.) (S.M.,J.)
21.11.2023

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S.S.SUNDAR,J.

AND

SUNDER MOHAN,J.

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