



*Cont.P.No.2231/2018*

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

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Mrs.A.Sujatha

.. Petitioner

Vs.

1.P.M.Elavarasan

2.T.V.Sivachidambaram

.. Respondents

**\*\*R2 impleaded vide order of this Court  
dated 31.01.2023 made in Sub.Appln.No.  
362/2021**

Prayer:- Contempt petition filed under Section 11 of the Contempt of Courts Act to punish the respondent / appellant for wilfully disobeyed and deliberately flouted the orders of this Court passed in OSA.No.328 of 2012 dated 13.09.2012.

|                |   |                      |
|----------------|---|----------------------|
| For Petitioner | : | Mr.M.Balasubramanian |
| For R1         | : | Mr.V.Vijay Shankar   |
| For R2         | : | Mr.Saravanavel       |



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## ORDER

[Order of the Court was made by S.S.SUNDAR, J..]

- (1) The above contempt petition is filed to punish the respondents for having committed willful disobedience of the order of this Court passed in OSA.No.328 of 2012 dated 13.09.2012.
- (2) Brief facts that are necessary for the disposal of this contempt petition are as follows:
- (3) The petitioner in the contempt petition purchased the property which is the subject matter of three suits, namely, OS.No.6469/2011 ; CS.No.803/2011 ; and CS.No.159/2012. The 1<sup>st</sup> respondent herein filed the suit in OS.No.6469/2011 for bare injunction. In the interim application in IA.No.13533/2011 in OS.No.6469/2011, the 1<sup>st</sup> respondent who sought for interim injunction, obtained an order of status quo with a direction to maintain the suit property in the vacant position. The petitioner herein earlier filed a suit in CS.No.803/2011 for declaration of her title and for consequential injunction and alternatively for



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declaration of title and recovery of possession. The 1<sup>st</sup> respondent thereafter filed another suit in CS.No.159/2012 for declaration and injunction. During the pendency of all the three suits, a Transfer Application in Application No.1823/2012 in CS.No.149/2012 was filed by the 1<sup>st</sup> respondent to transfer the suit in OS.No.6469/2011 from City Civil Court to be tried along with suits in CS.Nos.803/2011 and 159/2012. The Transfer Application was dismissed. Similarly, the order of status quo granted by a learned Single Judge of this Court in OA.No.187/2012 in CS.No.159/2012 was also set aside by order dated 01.08.2012. As against the orders of the learned Single Judge in dismissing the transfer application and vacating the order of status quo, the 1<sup>st</sup> respondent herein filed OSA.Nos.328 and 329/2012 before this Court. This Court, vide judgment dated 13.09.2012, disposed of the appeals in the following lines:-

*"Inasmuch as the suit in OS.No.6469/2011 on the file of the City Civil Court, Chennai, has been withdrawn, the appeal in OSA.No.329/2012, which is against the order in respect of the transfer of the*



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*above said suit in OS.No.6469/2011 to the Original Side of this Court to try along with CS.No.159/2012, has become infructuous and OSA.No.329/2012 stands closed.*

*2.In respect of OSA.No.328/2012, which relates to the direction issued by the learned Single Judge to maintain status quo, as granted by the City Civil Court and the suit was subsequently withdrawn by the parties making it further clear that none of the parties shall put up any further construction including improvement pending disposal of the suit. It is made clear that the learned Judge, while deciding the suit, shall decide the same independently on merits not being influenced by the observation made by the learned Judge including the title as well as the alleged suppression about the Civil Revision Petition. Accordingly, OSA.No.328/2012 stands closed. No costs."*

- (4) From the sequence of events, it is seen that the petitioner though filed a suit for declaration of title and consequential injunction and alternatively, for declaration of title and recovery of possession, has not obtained any interim order of status quo. It was the 1<sup>st</sup> respondent herein who got an order of status quo in the application



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for interim injunction to protect his possession during pendency of suit. Pursuant to the order of status quo granted by the Lower Court in OS.No.6469/2011, 1<sup>st</sup> respondent appears to have obtained this order of status quo which is contrary to the order already passed in his suit in OS.No.6469/2011. When that order of status quo was set aside by the learned Single Judge of this Court, the 1<sup>st</sup> respondent has preferred two appeals as against the order dismissing his application for transfer and also as against the order setting aside the order of status quo earlier passed by the learned Single Judge of this Court in the suit filed by the 1<sup>st</sup> respondent.

- (5) Since the suit in OS.No.6469/2011 was withdrawn by the 1<sup>st</sup> respondent, the appeal, namely, OSA.No.329/2012 as against the order dismissing the application for transfer became infructuous and therefore, this Court rightly closed OSA.No.329/2012. However, while disposing of OSA.No.328/2012, observed that the parties have made it clear that none of the parties shall put any further construction including improvement pending disposal of the suit. This observation though is not warranted in the light of



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the admitted facts, gives the cause for filing this contempt application.

- (6) It appears that the 1<sup>st</sup> respondent was all along trying to protect his possession to get an order of status quo. When the application filed by the 1<sup>st</sup> respondent is dismissed by vacating the order of status quo and the order vacating interim order was confirmed by this Court in the appeal, there need not be an order of status quo when the appeals were filed only by the 1<sup>st</sup> respondent.
- (7) A counter affidavit has been filed by the 1<sup>st</sup> respondent indicating that the subject matter of two suits pending as on date has already been sold in favour of one Sivachidambaram, the 2<sup>nd</sup> respondent herein, by a registered Sale Deed dated 08.10.2014. It is specifically stated that the 1<sup>st</sup> respondent has not put up any additional construction or improvement in the suit property till he sold the property in favour of the said individual.
- (8) The person who has purchased the property pending suit, has now been impleaded as 2<sup>nd</sup> respondent. From the counter affidavit of 1<sup>st</sup> respondent, it is seen that the 2<sup>nd</sup> respondent has informed the 1<sup>st</sup>



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respondent about the collapse of the compound wall during 2015 floods. It is now represented by respondents 1 and 2 that there was no construction or improvements in any manner and that the reconstruction of the collapsed wall and gate was to protect the property and there is no intentional disobedience of the order.

(9) It is to be seen that the petitioner himself has admitted before this Court that she was forcibly dispossessed by the 1<sup>st</sup> respondent pursuant to the Sale Deed obtained by the 1<sup>st</sup> respondent dated 08.08.2011. The petitioner has not filed or pursued any interlocutory application either for grant of injunction or for an order of status quo. When the order of status quo granted at the instance of 1<sup>st</sup> respondent is vacated, that does not given the petitioner a right or privilege. Apart from the fact that there is no scope for interpreting the order of this Court as one giving interim relief to the petitioner, this Court finds no merit in the allegation that the respondents have wilfully violated the order or direction of this Court.

(10) In view of the foregoing reasons, this Court is unable to accept the



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case of the petitioner that the respondents have committed any act of contempt by wilfully disobeying the order of this Court.

(11) In the result, the contempt petition is **closed**. Since the order of this Court has been understood as one directing parties to maintain status quo even by respondents and the order is not challenged, the parties shall observe status quo.

(12) Registry is directed to transmit the Original records to the Court below so that the suits filed by the petitioner and 1<sup>st</sup> respondent, may also be disposed of as early as possible, preferably within a period of six months from the date of receipt of a copy of this order.

[SSSRJ] [AANJ]

31.01.2023

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S.S.SUNDAR, J.,  
AND  
A.A.NAKKIRAN, J.,

AP

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