



Cont.P.(MD) No.521 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

CONT.P.(MD)No.521 of 2023

1.S.Padmavathi

2.S.Jeyalakshmi

... Petitioners / Petitioners

-Vs-

1.Thiru.R.Vaithinathan, I.A.S.,
The Commissioner,
Tiruchirapalli City Municipal Corporation,
Cantonment,
Bharathidasan Salai,
Tiruchirapalli 620001.

2.Thiru.B.Ganesan, I.A.S.,
The Director of Town and Country Planning,
Office of the Directorate of Town and Country Planning,
2nd, 3rd and 4th Floor, C&E Market Road,
Koyambedu,
Chennai – 600 107.

3.S.Subramanian

... Respondents / Contemnors

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PRAYER : Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondents 1 and 3 for not obeying the order passed by this Court in W.P.(MD)No.15773 of 2022 dated 04.01.2023.

For Petitioner	: Mr.S.K.Mani
For R1	: Mr.R.Baskaran Senior Counsel for M/s.R.B. Associates
For R2	: Mr.B.Saravanan Additional Government Pleader
For R3	: Mr.S.Ram Sundarvijayraj

ORDER

[Order of the Court was made by R.SURESHKUMAR, J.]

Alleging non-compliance of the order passed by this Court in W.P.(MD)No. 15773 of 2022, dated 04.01.2023, this Contempt Petition is filed.

2.This Contempt Petition had come up for hearing on 28.03.2023, 17.04.2023 as well as 27.04.2023. During the last hearing ie., on 27.04.2023, after hearing both sides, we passed the following order:-

“The third respondent, who is the owner of the building, though had already obtained approval under Section 49



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WEB COPY of the Town and Country Planning Act, 1971 (hereinafter referred to as 'the Act') since has violated the planning permission, action has been initiated under Section 56 of the Act and notice had been given under Section 56(1), as against which, he already exhausted the provision available under Section 56(3) read with Section 49 of the Act, pursuant to which a rejection order has been passed on 09.12.2022 that rejection since has been made by the competent authority under Section 49 of the Act, on the application submitted by the third respondent on 02.12.2022, to regularise the violation that has been committed by the third respondent, as against which, he has to prefer an appeal under Section 79 of the Act. However, without filing an appeal before the competent authority under Section 79 of the Act, he has claimed to have filed an application once again to the planning authority under Section 49 of the Act on 25.04.2023, which has been placed before this Court.

2. The said application is said to have been made on 25.04.2023 through online as claimed by the learned counsel for the third respondent is not in consonance with the scheme of the Act, as he has to make an appeal early against the rejection order dated 09.12.2022 only before the competent appellate authority under Section 79 of the Act. Therefore, the learned counsel seeks four weeks time to make such an appeal before the



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WEB COPY *appellate authority and report before this Court and if he makes an appeal before the appellate authority within the meaning of Section 79 of the Act as against the order passed on 09.12.2022, the same shall be entertained and processed as early as possible. With regard to the progress of such process of the appeal can also be reported before this Court by the official respondents during the next hearing date. Based on such report to be filed by the official respondents, further course of action would be taken. Till such time, the action taken by the respondents pursuant to Section 56(2A) to lock and seal the premises shall continue. Post on 01.06.2023."*

3.Pursuant to which, when the matter is taken up for hearing today, the learned counsel appearing for the 3rd respondent has submitted that as against the order of rejection made by the authority concerned under Section 49 of the Town and Country Planning Act, 1971 (hereinafter referred to as 'the Act') Act, an appeal has been preferred to the competent authority under Section 79 of the Act on 05.05.2023 and acknowledgment to that effect issued by the competent authority ie., the Additional Secretary (Technical), Housing and Urban Development Department, Chennai, had also been filed in the additional typed set of papers.

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4.He also submitted that simultaneously an application had also been made to the said authority under Section 80-A of the Act to de-seal the premises.

5.Both the appeal under Section 79 of the Act as well as the application under Section 80-A of the Act are still pending before the competent authority.

6.Heard the learned Standing Counsel for the 1st respondent, who would submit that if the appeal under Section 79 of the Act has already been filed, the same would be considered on merits and in accordance with law within a time frame that may be stipulated by this Court.

7.However, he would further submit that unless the appeal is decided by the competent authority within the meaning of Section 79 of the Act, the plea raised by the petitioner under Section 80-A of the Act to de-seal the premises cannot be considered, as that would go contra to the pending appeal as originally



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the authority has already rejected the premises of the third respondent under Section 49 of the Act.

8.We have also heard the learned counsel for the petitioner, who would submit that unless the appeal is decided one way or the other, *status-quo* with regard to the sealed premises shall be continuously maintained and there could not be any violation to that effect.

9.We have considered the submissions made on either side and perused the materials placed before this Court.

10.Since the appeal has already been filed as stated supra, which is pending before the competent authority, the same shall be considered and decided on merits by granting opportunity of hearing to the 3rd respondent as well as the rival claimants including the petitioner herein within a period of three months from the date of receipt of a copy of this order. It is made clear that till the appeal is disposed of as indicated above, lock and seal of the premises

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already made in respect of the plea of the 3rd respondent shall be maintained and de-sealing process sought for in the application submitted by the third respondent under Section 80-A of the Act can only be considered after a decision is made by the competent authority in the appeal filed under Section 79 of the Act as indicated above.

11. With these directions, this Contempt Petition is closed.

[R.S.K., J.] & [R.V., J.]
01.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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