



Cont.P.(MD)No.1077 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 25.07.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

Cont. P.(MD) No.1077 of 2023

in

W.P.(MD) No.22528 of 2022

M.Krishnan

... Petitioner

Vs.

Mr.Nagarajan,
Tahsildar,
Madurai West,
Madurai District.

... Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, praying to punish the contemnor / 2nd respondent herein for the deliberate and wilful disobedience of the order dated 26.09.2022 passed by this Hon'ble Court in W.P.(MD) No.22528 of 2022.

For Petitioner

: Mr.V.Pandian

For Respondent

: Mr.P.Thilak Kumar
Government Pleader



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ORDER

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

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The Contempt Petition is filed for punishing the respondent / contemnor on the allegation that the respondent has wilfully disobeyed the directions issued by this Court by order dated 26.09.2022 in W.P. (MD) No.22528 of 2022.

2. The petitioner earlier filed Writ Petition for issuance of a Writ of Mandamus, directing the respondents 1 to 6 therein to remove the encroachment made by the 8th respondent therein in public passage at Kandasamy Street, Sri Mappillai Vinayagar Nagar, Achampattu Panchayat, Madurai. The Writ Petition was disposed of with the following directions:-

“5. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side, this Court directs the 2nd respondent to proceed further pursuant to the communication of the 3rd respondent vide his proceedings in Na.Ka.No.2043/2021/Thi2, dated 26.08.2022, after issuing notice and conducting survey in the presence of the petitioner, respondents 7 & 8 and any other parties concerned and take necessary action for removal of encroachment, if any, in the public passage at Kandasamy



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Street, Sri Mappillai Vinayagar Nagar Achampattu Panchayat, Madurai, after affording an opportunity of personal hearing to the petitioner, respondents 7 & 8 and any other parties concerned and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.”

The petitioner has filed the Contempt Petition, alleging disobedience of the order.

3. Learned Government Pleader produced before this Court, the report of the survey conducted by the Tahsildar by proceedings dated 11.07.2023. As per the report, there is no encroachment by the respondents 7 and 8 as alleged by the petitioner. The report further states that some third parties were found to be in enjoyment of public land and proceedings were initiated to remove the encroachment.

4. The learned Government Pleader appearing for the respondent submitted that the land which was alleged to be encroached by the 8th respondent is not a public road and it is a private patta land. He would further submit that the third parties who have encroached the



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public land have also challenged the proceedings of the Tahsildar to remove the encroachment.

5. In paragraph 5 of the counter affidavit filed by the respondent, it is stated that the survey was conducted after issuing notice to all the parties concerned and the 8th respondent has purchased the property from the 7th respondent and therefore, the 7th respondent is not in encroachment of any land. It is also stated that the 8th respondent is in enjoyment of the land, to which he has got patta.

6. From the counter affidavit this Court is convinced that the petitioner has come forward with a false case in the Writ Petition and after getting a general direction for removal of encroachment, he has filed the above Contempt Petition without any bonafides. This Court finds no merits in the Contempt Petition. Hence, the Contempt Petition is dismissed.

[S.S.S.R., J.] [D.B.C., J.]

25.07.2023

NCC : Yes / No

Index : Yes / No

sj



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S.S.SUNDAR, J.

and

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