



Cont. P.(MD) No.1129 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**Cont. P.(MD) No.1129 of 2023
in
W.P.(MD) No.22894 of 2022**

S.Ferdin Rayan

... Petitioner

-VS-

Mr.V.Sivakrishnamurthy, IAS,
The Commissioner,
Tirunelveli Corporation,
Tirunelveli.

... Respondent

PRAYER : Petition filed under Section 11 of Contempt of Courts Act, praying to initiate proceedings for contempt against the respondent herein for wilful disobedience of the order of this Hon'ble Court dated 29.09.2022 in W.P.(MD) No.22894 of 2022 and punish the respondent for contempt.

For Petitioner : Mr.G.Mohan Kumar

For Respondent : Mr.S.P.Maharajan
Standing Counsel

O R D E R

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

The Contempt Petition is filed alleging wilful disobedience of the order of this Court dated 29.09.2022, passed in W.P.(MD) No.22894 of 2022.



Cont. P.(MD) No.1129 of 2023

2. The petitioner in this Contempt Petition has earlier filed the Writ Petition in W.P.(MD) No.22894 of 2022, for issuance of a Writ of Mandamus, to direct the respondents 1 to 7 to initiate appropriate legal action to demolish the unauthorized constructions put up in T.S.Nos.34 and 35 “Mangala Hospital” Door No.5A, Seevalaperi Road, Palayamkottai, within the time frame stipulated by this Court and consequently, to restrain the 8th respondent, from using the said building for any other purpose, than for which approval was granted.

3. The said Writ Petition was disposed of in the following lines:-

“6. Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the merits of the claim made by the petitioner either in the representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the fifth respondent to consider the representation of the petitioner dated 06.09.2022, with regard to removal of unauthorized construction, if any, after affording an opportunity of hearing to the petitioner, 8th respondent and all the parties concerned and pass appropriate orders on merits and in accordance with 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. Consequently, connected Miscellaneous Petitions are closed.”

According to the learned counsel for the petitioner, pursuant to the order of this Court, the unlawful construction has not been removed. Therefore, the



Cont. P.(MD) No.1129 of 2023

above Contempt Petition has been filed complaining wilful disobedience of the order of this Court.

4. Learned Standing Counsel appearing for the respondent has produced the copy of the order dated 05.06.2023, passed in W.P.(MD) No. 12963 of 2023, filed by M/s.Mangala Hospital, which, according to the petitioner, have put up unauthorized construction. In W.P.(MD) No.12963 of 2023. Taking note of the fact that M/s.Mangala Hospital has already gone on appeal under Section 80-A of the Town and Country Planning Act, as against the order passed by the Town and Country Planning Authority, Tirunelveli, to lock and seal the subject premises, this Court, by order dated 05.06.2023, disposed of the Writ Petition in the following lines:-

“4. This Court, without going into the merits of the claim made by the petitioner, directs the first respondent to dispose of the special revision filed by the petitioner under Section 80A of the Town and Country Planning Act dated 20.02.2023 within a period of 60 days from the date of receipt of a copy of this order. Till such time, the second respondent shall not take any coercive steps against the building in question.”

5. It is not in dispute that the private individual has filed a Special Revision under Section 80 of the Town and Country Planning Act. Even though there is time limit prescribed for disposal of Special Revision by the Government, the direction given that the Planning Authority shall not take



Cont. P.(MD) No.1129 of 2023

any coercive steps against the building in question shall not be ignored by the respondent.

6. Having regard to the facts and events as indicated above, this Court is of the view that the respondent Corporation cannot be found guilty of contempt. Hence, this Contempt Petition is closed.

[S.S.S.R, J.] [D.B.C., J.]
17.08.2023

Index : Yes / No
Neutral Citation : Yes / No
sj



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Cont. P.(MD) No.1129 of 2023

S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

sj

Cont. P.(MD) No.1129 of 2023

17.08.2023