



WEB COPY



Cont. P.(MD) No.1040 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM:

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

**Cont. P.(MD) No.1040 of 2019
in
W.P.(MD) No.24048 of 2018**

S.Dhanam

... Petitioner

-VS-

Mr.Kamardeen,
The Executive Officer,
Sevugampatti Town Panchayat,
Dindigul District.

... Respondent

PRAYER : Petition filed under Section 11 of Contempt of Courts Act, praying to punish the respondent/3rd respondent, for his wilful disobedience and wilful non-compliance of this Court's order dated 05.12.2018 made in W.P.(MD) No.24048 of 2018.

For Petitioner : Mr.R.Suriya Narayanan

For Respondent : Mr.P.Thilak Kumar
Government Pleader

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 05.12.2022, passed in W.P.(MD) No.24048 of 2018.



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2. This Court while disposing of W.P.(MD) No.24048 of 2018, dated 05.12.2018, directed the respondent to pass appropriate orders on merit and in accordance with law after affording an opportunity of hearing to the petitioner within a period of two weeks.

3. The grievance of the petitioner is that the respondent has passed an order of eviction and removed the encroachment without even affording an opportunity of hearing to the petitioner.

4. Learned Government Pleader appearing for the respondent contended that the petitioner was given a fair opportunity. However, this Court is unable to find any evidence to conclude whether the petitioner was given an opportunity of personal hearing before passing the order of eviction.

5. However, having regard to sequence of events, this Court is able to find a valid defence. The encroachment along the road margin has been removed to a great stretch and the removal of encroachment is without any discrimination and the petitioner and others have encroached into the road alignment. Since the petitioner's house is intact and the removal is only of steps in the encroached area, the same cannot be considered as one contrary to the direction of this Court. This Court issued a positive direction for removal of encroachment and the direction has been executed. Mere



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minor infractions while implementing the order of this Court need not be considered as wilful violation of the order of this Court.

6. In such circumstances, this Contempt Petition is closed.

[S.S.S.R, J.] [D.B.C., J.]
23.08.2023

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

To

Mr.Kamardeen,
The Executive Officer,
Sevugampatti Town Panchayat,
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