



CONT. P(MD)No.495 of 2019

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.495 of 2019

in

W.P(MD)No.10755 of 2019

Tuticorin Circle Washerman Union,
Rep. by its Secretary,
S.Subbiah,
Bupalarayapuram 1st Street,
Tuticorin-1.

: Petitioner/Petitioner/Petitioner

Vs.

1.Mr.Sandeep Nandoori,
The District Collector,
Tuticorin District,
Tuticorin.

2.Mr.M.Veerappan,
The District Revenue Officer,
Tuticorin District, Tuticorin.

: Contemnors/Contemnors/Respondents

Prayer:

Contempt Petition filed under Section 11 of the Contempt of Court Act, to punish the respondents for their wilful disobedience of the order of this Court made in Cont.P.(MD)No.2166 of 2017 dated 26.03.2018.



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For Petitioner : Mr.B.K.Rajendran
For Respondents : Mr.D.Sachikumar
Additional Government Pleader
Mr.Anandakumar
Tuticorin Corporation

ORDER

(order of the Court was made by S.S.Sundar, J.)

This Contempt Petition is filed alleging wilful disobedience of the order passed by this Court dated 26.03.2018 in Cont.P.(MD)No.2166 of 2017.

2. The petitioner earlier filed a writ petition in W.P.(MD)No.743 of 2010 for issuance of Writ of Mandamus directing the respondents 1 to 3 therein, namely, the District Collector, the District Revenue Officer and the Commissioner of Tuticorin Municipality to remove the encroachment in S.Nos.223/1, 223/3 and 223/6 situated at Mappillaiyoorani Village, Thalamuthu Nagar, Tuticorin District. The said writ petition was originally disposed of by order dated 07.12.2016 directing the respondents to remove the encroachments within a period of two months from the date of receipt of a copy of that order.



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2.1. It is to be noted that encroachments were not made parties in the writ petition. However, this Court on the basis of the submission of the learned Additional Government Pleader appearing for the respondents 1 and 2, observed that encroachments are noted in S.No.223/1 and that the property in S.No.223/1 had been assigned. This Court also recorded a finding that the third respondent, namely, the Commissioner of Municipality had conceded that the property in question does not come within the limit of the municipality. The third respondent also contented that the municipality is not a necessary party to the writ petition.

2.2. Later, the petitioner filed a contempt petition in Cont.P(MD)No.2166 of 2017 alleging that the respondents namely, the District Collector and the District Revenue Officer who were respondents 1 and 2 in the writ petition are liable to be punished for wilful disobedience of the order of this Court passed in W.P.(MD)No. 743 of 2010, dated 07.12.2016. That was closed by order dated 26.03.2018 in the following lines:

“....3.The respondents had taken action immediately after the disposal of the writ petition and issued notices and those notices were put to challenge before us, in a batch of cases and we have dismissed all the writ petitions and directed the authorities to proceed further and we have also extended the



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time for taking action. Therefore, we direct the respondents to strictly abide by the direction issued by us in the other batch of writ petitions filed by the encroachers, without any default.

4. With the above direction, this Contempt Petition is closed. No costs."

2.3. Therefore, this Court after taking note of the fact that proceedings were initiated for removal of encroachment by issuing notice to the encroachers, directed the respondents to abide by the directions issued by this Court in the other batch of writ petitions filed by the encroachers without any default. It is to be noted that in the writ petition filed by the encroachers, this Court disposed of the same by order dated 02.03.2018 with a following directions:

"The petitioners are directed to treat the impugned order issued under Section 6 of the Act, as a show cause notice and submit their objections to the second respondent on or before 23.03.2018 and on receipt of such objections, the second respondent shall fix a date personal hearing. The petitioners or their authorised representatives shall be heard in person and if any documents are placed by them, the same shall be considered by the second respondent and the second respondent shall pass a speaking order giving reasons as to why the objections raised by the petitioners feasible or not



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feasible of consideration. Such order shall be passed by the second respondent on or before 11.04.2018. Till then status quo is prevailing as on date shall continue”

2.4. Therefore, this Court in the writ petitions filed by the encroachers, only directed the respondent to give sufficient opportunity and to consider the representatives of the persons who are in enjoyment of the property. The respondent was asked to pass an order on or before 11.04.2018. Now, a counter affidavit has been filed by the District Collector, *inter alia* pointing out that an extent of 3.45.0 hectares of Government poramboke land in S.No.223/6 which was originally allotted for the purpose of construction of Dhobykanna by providing basic amenities and infrastructures for administering the laundering had not been utilised. It was also pointed out that a substantial portion of the lands were occupied by 33 families who were mostly poor and living in penurious circumstances. It is in the said circumstances, the Collector has also recommended for fresh allotment to the person, who is in possession and enjoyment of the property on the ground that the encroached area is only in poramboke land which is also not unobjectionable. Stating that the Government has already announced a special scheme with the twin objectives of ensuring house site for all families who are living in the encroached



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poramboke lands for many years by regularizing their enjoyment, the District Collector has recommended to regularize the encroachment and to grant patta for the encroachers by fixing a ceiling of 3 cents for each of the family subject to approval of the Government.

3. Having regard to the stand taken by the District Collector, this Court finds that there is no wilful disobedience of the order passed by this Court. First of all, the direction for removal of encroachment is subject to the valid reason or objection that may be taken by the individual owners who have a right to consider their representations for getting a free house patta in terms of the Government's policy decision as reflected in the various Government orders referred to in the counter affidavit filed by the first respondent. In the said circumstances, the decision or observation of the District Collector to consider the claim of individual encroachers who have put up residential constructions either temporarily or permanently cannot be faulted. It is to be noted that the Government has come forward with several orders to regularize unauthorised encroachments in non-objectionable poramboke land. Having regard to the fact that the Collector has come forward with a positive case that the lands are classified as poramboke and that the encroachment is



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unobjectionable, it is always open to the District Collector to implement the Government Orders and to deal with lands as may be permitted by the Government as per the G.Os referred to in the District Collector's counter affidavit. Having regard to the fact that the directions of this Court is subject to the representation and objections that may be raised by the encroachers and this Court finds that the decision of the Collector due to change of circumstances may not be construed as one in wilful disobedience of the direction of this Court. In such circumstances, this Court find no merits in this contempt petition and accordingly, the Contempt Petition stands dismissed.

(S.S.S.R.,J.) (D.B.C.,J)
17.08.2023

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

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To

- 1.Mr.Sandeep Nandoori,
The District Collector,
Tuticorin District,
Tuticorin.
- 2.Mr.M.Veerappan,
The District Revenue Officer,
Tuticorin District, Tuticorin.



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