



Cont P(MD)No.578 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE P.D.AUDIKEVALU**

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M.Murugesan

... Petitioner/Petitioner

-VS-

Mr.N.Ravichandran,
Commissioner,
Trichy Corporation,
Trichy.

... Contemnor/Respondent

PRAYER: Contempt Petition filed under Section 11 of Contempt of Courts Act, 1971, to punish the respondent for his willful and wanton disobedience of the orders dated 19.11.2018 under the contempt of Courts Act.

For Petitioner : Mr.I.Romeo Roy Alfred

For Respondent : Mr.R.Baskaran

Standing Counsel



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ORDER

DR.G.JAYACHANDRAN,J.
AND
P.D.AUDIKESAVALU,J.

The contempt petition is offshoot within the writ petition in W.P(MD)No. 19159 of 2018 disposed of on 19.11.2018 with the following observations:-

“5.The report submitted by the Commissioner, City Municipal Corporation shows the act of encroachment on the part of the third respondent. The corporation has already issued notice to the third respondent for removal of the encroachment. The Court has no jurisdiction to entertain a suit in respect of proceedings initiated under the Tamil Nadu District Municipalities Act, 1920. It is for the Corporation to take further proceedings pursuant to the notice.

6. The third respondent shall be given reasonable time to submit her response and to produce documents. The Commissioner, Trichy Corporation shall consider the documents produced by the third respondent and take a decision in the matter of removal of respondent to proceed further notwithstanding the pendency of the civil suit, which is not legally maintainable.”



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2. Alleging that the respondent has not complied with the order and removed the encroachment, the present contempt petition is filed.

3. When the matter was taken up on previous occasion, the learned Standing Counsel appearing for the respondent submitted that they have removed the encroachment and shown certain photographs. The learned counsel appearing for the contempt petitioner submitted that he needs to verify the said fact and sought time. Accordingly, the matter was adjourned today.

4. Today, the learned counsel for the contempt petitioner submitted that the encroachment has been removed and the public pathway is made clear for access to public.

5. The learned counsel appearing for the third respondent/D.Gandhimathi in the writ petition submitted that under the guise of removing the encroachment on the pathway, some portion owned by the third respondent in the writ petition also been removed. He also brought to the notice of this Court that a comprehensive suit has already been filed and the same is pending in O.S.No.722 of 2020 before the IV Additional Sub Court, Trichirappalli.



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6. We make it clear that this Court, while passing an order in the writ petition, has specifically stated that the civil suit is not maintainable in respect of the property owned by the Government, but however, if any land of the third respondent in the writ petition, for which, he is able to prove the title, has now been removed in addition to the encroachment, remedy is available with the petitioner to work out in the suit.

7. The learned counsel for the third respondent in the writ petition undertakes that the said third respondent shall not encroach upon the Government land in future.

8. In view of the above, the contempt petition is closed.

[G.J.,J.] [P.D.A.,J.]
10.01.2023

Index : Yes / No
Internet : Yes / No
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