



CONT.P.(MD)No.1060 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cont.P.(MD)No.1060 of 2017

in

W.P.(MD)No.22159 of 2016

A.Bavapururdeen

... Petitioner

Vs.

1.Rajagopalan,
Executive Officer,
Selection Grade Town Panchayat,
Thiruppuvanam Town and Taluk.
Sivagangai District.

2.Malarvizhi,
District Collector,
Sivagangai District.

3.Rajendran,
Assistant Director of Panchayat,
Sivagangai, Sivagangai District.

4.Kamala,
Tahsildar,
Thiruppuvanam Taluk,
Thiruppuvanam,
Sivagangai District.

... Respondents

*(R2 to R4 are impleaded vide order dated
31.07.2017 made in Sub.A.(MD)No.176 of
2017 in Cont.P.(MD)No.1060 of 2017)*



CONT.P.(MD)No.1060 of 2017

Prayer: Contempt petition is filed under Section 11 of the Contempt of Courts Act, to punish the Contemnor/4th respondent herein for their wilful disobedience of the order passed by this Court in W.P(MD) No.22159 of 2016 dated 10.1.2017.

For Petitioner : Mr.N.Rahamadullah

For Respondents : Mr.Veera Kathiravan,
Addl. Advocate General,
Assisted by Mr.S.RA.Ramachandran,
Addl. Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

2.The petitioner filed W.P.(MD)No.22159 of 2016 seeking two fold prayer. The first one is that drainage water should not be let into his patta land in S.Nos.106/1 and 107/1 in Thiruppuvanam Pudur. The other part of the prayer is that the existing drainage channel should be



CONT.P.(MD)No.1060 of 2017

renovated or new drainage channel constructed. An undertaking was given on the Government side. Recording the same, the writ petition was disposed on 10.01.2017. Alleging that the undertaking given before this Court has not been honoured, the present contempt petition came to be filed.

3.When the matter was taken up for hearing, the learned Additional Advocate General produced photographs indicating the status on ground.

4.While I can appreciate the practical difficulties experienced by the local body as well as the district administration, the right of the petitioner cannot be ignored. It is beyond dispute that the land in S.Nos.106/1 and 107/1 in Thiruppuvanam Pudur are the petitioner's patta land. While he may not have any objection for the natural flow of water, he is certainly entitled to insist that through the natural course, drainage water cannot be let in. That certainly would amount to an act of nuisance. It would also pose health hazard. In these circumstances, the respondents have a limited choice before them. Either they acquire the



CONT.P.(MD)No.1060 of 2017

petitioner's lands to facilitate the continuance of the status quo or they device some other route.

5.The writ petition itself came to be disposed of without an adjudication on merits but based on the undertaking given by the authorities. Since the undertaking is not being honoured, necessarily some direction has to be given to protect the petitioner's rights. Granting liberty to the respondents to adopt one of the courses of action mentioned above, the local body as well as the district administration are restrained from letting drainage water into the petitioner's land. The respondents do not have a magic wand to enforce this direction immediately. I grant them three months time.

6.With this direction, this contempt petition is disposed of.

07.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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4/6



CONT.P.(MD)No.1060 of 2017

To:-

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G.R.SWAMINATHAN, J.

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in
W.P.(MD)No.22159 of 2016

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(1/2)