



Cont.P(MD)No.1131 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.08.2023

CORAM:

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

Cont.P(MD)No.1131 of 2017
in
W.P(MD)No.1532 of 2017

D.Roselet Anitha

... Petitioner/Petitioner

Vs.

1.Mr.Dharmaraj,
Superintendent of Police,
Nagercoil,
Kanyakumari District.

2.Mrs.Janaki,
Revenue Divisional Officer,
Nagercoil Division,
Nagercoil, Kanyakumari District.

3.Mrs.Sarathamani,
Thasildar,
Thovalai Taluk,
Kanyakumari District.

4.Mr.Subramani,
Executive Engineer,
Water Resource Organization,
Public Works Department,
Kodayar Basin Division,
Nagercoil,
Kanyakumari District.



Cont.P(MD)No.1131 of 2017

5.Mr.Bensom,
Inspector of Police,
Boothapandi Police Station,
Kanyakumari District. ... Contemnors/Respondents 2 to 6

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the contemnors/respondents herein for their willful disobedience of the order dated 03.04.2017 passed by this Court in W.P(MD)No.1532 of 2017 on the file of this Court.

For Petitioner : Mr.N.S.Rama Krishnadass

For Respondents: Mr.J.K.Jayaseelan,
Government Advocate

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

Alleging willful disobedience of the orders of this Court made in W.P(MD)No.1532 of 2017, dated 03.04.2017, the petitioner has filed this contempt petition.

2. Earlier, the petitioner in this contempt petition filed a writ petition in W.P(MD)No.1532 of 2017, seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 6, to protect and restore the stream (Odai) situated in Survey No.66, Azhahiyapandiyapuram Village, Boothapandi Taluk, Kanyakumari District.



Cont.P(MD)No.1131 of 2017

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3. This Court while disposing of the said writ petition, took note of the proceedings of the District Collector, Kanyakumari District dated 11.06.2010, indicating that portion of the construction, which was allegedly put up in the patta land of the seventh respondent therein, by the Public Works Department for the purpose of preserving the water course, was demolished by the seventh respondent. Further, in the said communication, the District Collector had directed the seventh respondent to restore the construction demolished by him. This Court has also directed the respondents to look into the proceedings of the District Collector, dated 11.06.2010 and take further action within a period of two months.

4. It is now reported that the seventh respondent in the writ petition has filed an independent writ petition in W.P(MD)No.13818 of 2013 challenging the order of the Commissioner of Land Administration, dated 30.07.2012. In the said writ petition, the seventh respondent has not only referred to the order passed by the District Collector, dated 11.06.2010 but also the appeal preferred by him against the order passed by the District Collector, dated 11.06.2010. It appears that the Commissioner of Land Administration has also passed an order against the seventh respondent. Aggrieved



Cont.P(MD)No.1131 of 2017

by the same, the seventh respondent in the writ petition has filed the said writ petition in W.P(MD)No.13818 of 2018 and obtained an order of injunction on 22.08.2013. It is now represented before this Court that by virtue of the interim order granted in the said writ petition filed by the private respondent, the respondents are unable to comply with the directions of this Court.

5. Having regard to the nature of the direction issued by the District Collector, this Court finds that the seventh respondent in the present writ petition, who is the petitioner in W.P(MD)No.13818 of 2013 has an independent cause of action and has an independent right to protect his right as an aggrieved individual not only in the writ petition but also by way of a suit. Since the general direction issued by this Court is without adverting to the individual's civil rights, this Court cannot entertain the contempt petition for violation of such general direction, which was based on the communication of the District Collector.

6. Since this Court does not find any statutory force in the recommendation of the District Collector and it affects the civil right of an individual, a third party's right cannot be put to jeopardy by



Cont.P(MD)No.1131 of 2017

giving directions in this contempt petition.

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7. This Court is convinced that the direction of this Court in the writ petition has been substantially complied with and this Court cannot permit the petitioner to use this Contempt Petition as a leverage to force the respondents to act as against the interest of a third party, who has an independent right and who has approached this Court or may approach any other Court to protect his common law right. This Court is not inclined to keep this contempt petition pending in the light of the facts narrated above. Hence, this Contempt Petition is closed. However, liberty is given to the petitioner to agitate her right either by impleading herself in W.P(MD)N.13818 of 2013 or by establishing such right by filing a civil suit.

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

08.08.2023

Index : Yes/No

NCC : Yes/No

pm



Cont.P(MD)No.1131 of 2017

To

WEB COPY

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Kanyakumari District.
- 2.The Revenue Divisional Officer,
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Nagercoil, Kanyakumari District.
- 3.The Thasildar,
Thovalai Taluk,
Kanyakumari District.
- 4.The Executive Engineer,
Water Resource Organization,
Public Works Department,
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WEB COPY



Cont.P(MD)No.1131 of 2017

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and

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Cont.P(MD)No.1131 of 2017

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