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Order dated 12.02.2024 in
Cont.P.No.267 of 2020
and Rev.A.No.43 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.02.2024

Coram:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Cont.P.No.267 of 2020
and
Rev.A.No.43 of 2021 in W.A.No.1816 of 2019

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A.M.S.Ameenullah

.. Petitioner in Cont.P.No.267 of 2020

1. The Director General,
Archaeological Survey of India,
Janpath, New Delhi-110 011.
2. The Superintendent Archaeologist,
Archaeological Survey of India,
Chennai Circle,
Fort St.George, Chennai-600 009.

.. Review Petitioners in Rev.A.No.43 of 2021

Vs.

1. Smt.Usha Sharan, IAS.,
The Director General,
Archaeological Survey of India,
Janpath, New Delhi-110 011.
2. Dr.A.M.U.Subramanyam,
The Superintending Archaeologist,
Archaeological Survey of India,
Fort St.George, Chennai-600 009.

.. Respondents in Cont.P.No.267 of 2020

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1. A.M.S.Ameenullah

2. Union of India,
Rep. by its Secretary to Ministry of Culture,
Central Government,
Shastri Bhawan, New Delhi-110 015.

.. Respondents in Rev.A.No.43 of 2021

Contempt Petition No.267 of 2020 filed under Section 11 of the Contempt of Courts Act, to punish the respondents for willful disobedience of this Court's order passed in Writ Appeal No.1816 of 2019 in W.P.No17611 of 2012, dated 30.10.2019, on the file of this Court.

Review Petition No.43 of 2021 filed under Order XLVII Rule 1 read with Section 114 of the Code of Civil Procedure against the order dated 30.10.2019 passed in Writ Appeal No.1816 of 2019 on the file of this Court.

Cont.P.No.267 of 2020 :

For petitioner : Mr.P.L.Narayanan, Senior Counsel

For respondents: Mr.AR.L.Sundaresan, Addl. Solicitor General

Rev.A.No.43 of 2021 :

For petitioner : Mr.AR.L.Sundaresan, Addl. Solicitor General

For respondents: Mr.P.L.Narayanan, Senior Counsel

COMMON ORDER

Complaining that the direction of the Division Bench made in the order

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dated 30.10.2019 passed in Writ Appeal No.1816 of 2019, has not been obeyed, this Contempt Petition is filed. As against the same order in the Writ Appeal, Review Application is also filed.

2. At the instance of this Court, an Expert Committee had inspected the Holy Book "Quran" and has found that there are no blank pages which could be taken out and sent for ascertaining the age of the paper.

3. The prayer in the Writ Petition was to ascertain the age of the Holy Text Quran, which is in possession of the petitioner. Since it has been registered as an 'Antiquity' under the Antiquities and Art Treasures Act, 1972, the petitioner moved this Court for a direction to take a sample of the Book which according to him was a blank page and send it abroad to ascertain its age.

4. In the above backdrop, in the said Writ Petition, the following order was passed by the learned Single Judge:

"7. In order to ensure the proper testing and dating of the book, this Court directs as follows:

(i) The second respondent is directed to take two samples from the holy Quran, seal the same adequately and properly and handover both samples to the petitioner within a period of four (4) weeks from today after informing the petitioner as to the intended time of the visit for the aforesaid purpose.

(ii) The petitioner will transport one sample to Research Laboratory for Archaeology, University of Oxford and the second to the Director, Birbal Sahni Institute of Palaeo Sciences, 53 University Road



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Lucknow-226 007 for carbon dating and testing. It is made clear that the procedures set out in the Antiquities and Art Treasures Rules, 1973 in regard to the taking of samples and testing of the same shall be followed by both parties scrupulously.

(iii) It is also clarified that the location of the Holy Quran should not be disturbed and the same should be continued to be where it is presently located. In any event the Holy book should not be taken out of the country and should remain in India in consonance with the provisions of the Antiquities and Art Treasures Act, 1972."

5. Challenging the above order passed by the learned Single Judge, the Writ Appeal was filed by the Archaeological Survey of India, in which, a Division Bench of this Court held as under:

"8. Accordingly, the Appeal fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed. The appellants are directed to take samples properly and give it to the 1st respondent/writ petitioner within a period of three weeks from the date of receipt of a copy of this order. On receipt of the same, the 1st respondent shall send one sample to the Research Laboratory for Archaeology, University of Oxford and another sample to the Director, Birbal Sahni Institute of Palaeo Sciences, 53, University Road, Lucknow for carbon dating and testing, within a period of two weeks from



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the date of receiving the sample."

Complaining that the above order of the Division Bench has not been obeyed, this Contempt Petition has been filed.

6. Pending Contempt Petition, an expert panel was appointed by this Court. The panel has filed a report, after going through the Book, stating that there is no blank paper or blank page in the Book, which could be taken apart and sent for examination. Therefore, the task has become impossible.

7. It cannot be said that there is willful disobedience of the order of this Court.

8. Mr.P.L.Narayanan, learned Senior Counsel appearing for the petitioner submitted that as per Rule 3 of the Antiquities and Art Treasures Rules, 1973, framed under the said Act, the Director General can issue permit for export of any antiquity or art treasure. Rule 3 of the said Rules reads as follows:

"Rule 3: Authority competent to issue permits under sub-section (2) of section 3:--The Director-General shall be authority competent to issue permit under section 3 for the export of any antiquity or art treasure,.

Explanation: For the purposes of rules, the expression "Director-General" means the Director-General, Archaeological Survey of India and includes an officer not below the rank of the Director, Archaeological Survey of India duly authorised in this behalf by the Director-General."



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9. A reading of the above provision shows that the right to export an antique or an art treasure, is totally vested in the Government or any agency authorised by the Government. There is complete prohibition of private individuals from taking any antique or an art treasure outside the country. Hence, we cannot permit the petitioner to take the Holy Book "Quran" outside the country to determine its age.

10. Since we find that there is no willful disobedience of the order under contempt, we close the Contempt Petition, leaving it open to the petitioner to seek any other remedy that is available to him under law.

11. In view of the fact that the expert committee report shows that there is no blank paper or page available in the Holy Book, which could be removed, without damaging the text and sending it out of the country is not possible, we dismiss the Review Application.

12. There shall be no order as to costs.

(R.S.M., J) (P.V., J)
12.02.2024

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To

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