



WEB COPY



Cont.P.No.1662 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Cont.P.No.1662 of 2022

in

E.A.No.6 of 2019

in

E.P.No.725 of 1984

(X Asst.Judge, City Civil Court, Chennai)

in

O.S.No.587 of 1970

and

Sub.Appl.No.718 of 2022

Sri Swamy Hathiramji Mutt,
Represented by its Mahant Sri Sri Arjundoss,
Disciple of Devendradossji,
Tirupati, Andhra Pradesh.

... Petitioner/Decree Holder/Plaintiff

Vs.

Mr.Gagandeep Singh Bedi, I.A.S.,
The Commissioner,
Greater Chennai Corporation,
Chennai - 600 003.

... Respondent/III Party



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PRAYER: Contempt Petition filed under Section 10 of the Contempt of Courts Act, 1971 to punish the respondent herein, for having committed Contempt of Court by violating/flouting the order dated 31.01.2020 in E.A.No.6 of 2019 in EP.No.725 of 1984 in O.S.No.587 of 1970 passed by the learned X Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.R.Selvakumar

For Respondent : Mr.R.Ramanlaal
Additional Advocate General
assisted by
Ms.P.T.RamaDevi
Standing Counsel for Greater
Chennai Corporation

ORDER

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

The present contempt petition has been instituted under Section 10 of the Contempt of Courts Act to punish the respondent for his wilful disobedience of the orders of the learned X Assistant Judge, City Civil Court, Chennai dated 31.01.2020 in E.A.No.6 of 2019 in EP.No.725 of 1984 in O.S.No.587 of 1970.

2. Mr.R.Selvakumar, the learned Counsel for the petitioner would submit that the suit for eviction was instituted by the petitioner/Mutt in



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O.S.No.587 of 1970. The suit decreed in favour of the plaintiff. Thereafter, execution proceedings are instituted. Meanwhile, the defendants, who suffered decree, allowed encroachments. It is stated that about 200 families are now in occupation of the private property belongs to the petitioner/Mutt as per their statement.

3. The grievances of the petitioner/Mutt is that the execution order dated 31.01.2020 passed by the learned Xth Assistant Judge, City Civil Court, Chennai has not been implemented by the Chennai Corporation. Thus, the present contempt petition came to be instituted.

4. Admittedly, the subject property is not a public property but a private property owned by the petitioner/Mutt. The original suit was instituted against four defendants in the year 1970 and a decree was passed in favour of the petitioner/Mutt. As far as the said decree is concerned, it is executable against the defendants in the original suit. Subsequently, 200 families occupied the private property as per the petitioner/Mutt and they are paying property tax and enjoying electricity service connection, water connection etc., and claiming certain rights.



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5. In such circumstances, the petitioner/Mutt claims to be the owner has to sue all those encroachers for eviction in the manner known to law. Contrarily, by virtue of the decree passed in O.S.No.587 of 1970, the petitioner cannot evict the occupants, who all are living in the said property for several years. Even for eviction of encroachers, the procedures are to be followed. If it is a Government property, then the provisions of Tamil Nadu Land Encroachments, Act 1905 is to be followed. In respect of the private property, owners have to sue the encroachers for eviction by following due process. Contrarily, simply by instituting a contempt petition under Section 10 of the Contempt of Courts Act, the petitioner/Mutt cannot seek eviction of his private property through the Commissioner, Chennai Corporation.

6. More-so, Section 10 of the Contempt of Courts Act need not be invoked for the purpose of execution of a decree of a Civil Court, since alternate efficacious remedy is available under law. Instead of initiating appropriate actions as contemplated under law, the decree holders are attempting to maintain the contempt petition, which cannot be encouraged by the Courts. Only in the event of interfering with the administration of justice, High Court would be entertaining contempt proceedings and in



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respect of the decree passed by the Civil Courts, the Decree Holder has to execute the same in the manner known to law.

7. In view of the fact that the encroachers were not parties neither in the suit nor in the execution proceedings and they are in occupation of the private property for several years, the petitioner/Mutt has to initiate all appropriate actions in the manner known to law.

8. With this liberty, the contempt petition stands **dismissed**.
Consequently, connected Sub-Application stands closed.

[S.M.S., J.]

[V.S.G., J.]

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To
The Commissioner,
Greater Chennai Corporation,
Chennai - 600 003.



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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

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