



Cont. Pet. No.2814 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 23.02.2024	Delivered on 18.03.2024
-----------------------------------	------------------------------------

CORAM

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Contempt Petition No.2814 of 2022

1. The Chief Postmaster General
Tamil Nadu Circle,
Anna Salai, Chennai 2.
 2. The Postmaster General
Western Region,
Coimbatore 641 002.
 3. The Senior Superintendent of Post Offices,
Coimbatore Division,
Coimbatore 641 001.
- ... Petitioners

Versus

1. Mrs. M.Leema Rose
wife of Mr.Martin
Partner Sakethnath & Company,
No.54, Mettupalayam Road,
G.N.Mills Post,
Coimbatore 641 029.



Cont. Pet. No.2814 of 2022

WEB COPY

2. M. Charrles

3. M. Daisy

4. M. Jose Daisan

5. R. Paramasivam

Impleaded as respondents 2 to 5 as per the order of Hon'ble Court dated 28.08.2023 made in Sub Appln. No.600 of 2023 in Cont. P. No.2814 of 2022.

6. The Joint Director,
Coimbatore District Town &
Country Planning Office,
Corporation Commercial Complex,
Dr. Naanjappa Road,
Coimbatore 641 018.

Suo motu impleaded as sixth respondent as per the order of the Hon'ble Court dated 09.10.2023 made in Cont. P.No.2814 of 2022.

... Respondents

PRAYER: Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for having committed contempt of Court in vide orders dated 10.04.2019 in Review Application No.177 of 2018 in W.A.No.303 of 2013.

For Petitioner : Mr.V.Balasubramanian

For Respondents : Mr.S.Saravanan, for R1



WEB COPY



Cont. Pet. No.2814 of 2022

ORDER

(Order of the Court was delivered by R.SUBRAMANIAN, J.)

Disobedience of the order dated 10.04.2019 made in Review Application No.177 of 2018 in Writ Appeal No.303 of 2013 is complained of in this Contempt Petition.

2. The facts in this contempt petition reveal the total lack of sense of responsibility in the Officers, who had manned the Postal Department at the relevant point of time. The short facts that are necessary for disposal of this Contempt Petition are as follows:

On 03.02.1982, a notification under Section 4(1) of the Land Acquisition Act was published for acquisition of land of an extent of about 2 acres in Coimbatore for the purposes of the Postal Department. The land owners challenged the acquisition in WP No.1968 of 1985. For the reasons that no one can justify, at the time of hearing of the Writ Petition, the Postal Department struck a compromise with the land owners upon an undertaking given by them to construct a building of an extent of 4800 sq. feet consisting of two floors and lease it out to the Department for 99 years at a



Cont. Pet. No.2814 of 2022

nominal rent of one rupee per month. Upon such assurance, the land acquisition proceedings were withdrawn. The said decision, the least to say, is unwise apart from being highly irresponsible. The subsequent events have demonstrated that the decision to withdraw the acquisition was completely misdirected.

3. After about 20 years from the date of the original agreement dated 25.10.1989, the land owners filed a Writ Petition in WP No.14690 of 2009 in this Hon'ble Court seeking a direction to the Postal Department to accept an alternative site instead of the original site. In that Writ Petition, a counter affidavit was filed, para 17 of the said counter affidavit in effect accepted the proposed alternative site for construction of a building for the Postal Department and sought for a restraint on the land owners from developing the original site till they complete the construction at the alternative site. Recording the said statement made in paragraph 17 of the counter affidavit and the acceptance of the condition by the petitioners in the Writ Petition/the land owners, this Court directed the respondents therein viz. the Postal Department to furnish the specifications of the



Cont. Pet. No.2814 of 2022

building within a period of one month from the date of receipt of the copy of the order.

4. Since there was no progress, the Postal Department filed the Contempt Petition No.103 of 2011, even during the pendency of the said Contempt Petition, another Writ Petition was filed by the original owners in WP No.11222 of 2011 with a prayer for Mandamus directing the Coimbatore Planning Authority to approve the plans submitted by it for construction of the Post Office. That application came to be disposed of with a direction to the Planning Authority to dispose of the application for planning permission within four weeks time.

5. An application for Review of the Order made in WP No. 14690 of 2009 was also filed. When these applications came up for hearing, the learned Single Judge recalled the order dated 26.10.2009 made in WP No.14690 of 2009 and dismissed the Writ Petition. Consequent upon dismissal of the Writ Petition, the Contempt Petition was also closed. This resulted in the failure of the proposal for the alternate site. The land



Cont. Pet. No.2814 of 2022

owners, however, challenged the order in Review Application No.67 of 2012 in Writ Appeal No.303 of 2013. The said Writ Appeal was dismissed by a Division Bench on 20.02.2018 and the Division Bench had observed that the Postal Department had played into the hands of land owners by agreeing to withdraw the acquisition proceedings. Not content the land owners preferred the Review Petition in Review Application No.177 of 2018 which also came to be dismissed on 10.04.2019.

6. This Contempt Petition has been filed by the Postal Department now contending that the land owners have not kept of their promise of constructing a building as per the original agreement. In response to the Contempt Petition, it is now stated that the planning permission sought for has been refused on the ground that the site in question has no access from a public road. The only access that is available is through a common pathway in which the third parties have an interest. The Planning Authorities refused permission on the ground that being a public utility building, the same should have access from a public road and not through a private passage in which the third parties have an interest. The land owners would claim that



Cont. Pet. No.2814 of 2022

even though they are prepared to construct as per the original undertaking given in the year 1989, the construction has become almost impossible because of the stand taken by the Planning Authorities.

7. The Postal Department would, however, claim that it is ready to accept the building even if it is constructed now. We are unable to accept the said submission. Being a public utility building, as per the Development Control Rules it must have access from a public road, if it has no access from a public road, planning permission cannot be granted. If no planning permission could be granted, the construction cannot come up. Therefore, the order in the Review Petition No.67 of 2012 has become impossible of being implemented as of today.

8. No doubt, the land owners have not kept up their promise, but unfortunately the Postal Department has played into the hands of the land owners by withdrawing an acquisition and blindly accepting their offer for a constructed building in a place to which there is no public access. It is clear to our mind that the agreement entered into between the Postal Department



Cont. Pet. No.2814 of 2022

and the land owners on 25.10.1989 is not capable of being performed today.

We are therefore convinced that there is no contempt of Court since the land owners had applied for planning permission and they are not able to secure planning permission as of today since there is no public access available to the building.

9. We therefore **dismissed** the Contempt Petition.

10. Before parting with this case, we must observe that the Postal Department exhibited complete irresponsibility in entering into an agreement for construction in a place where there is no public access. We find that even the original proposal to acquire is not of land which is situate abutting a public road. The original proposal to acquire itself was of land which is situate behind a commercial complex which has only a private pathway as an access. Fortunately or unfortunately, the said acquisition was dropped and an agreement is entered into for construction of a very small building in the same site.

11. It is now found that the site does not have a public access.



Cont. Pet. No.2814 of 2022

Therefore, the very agreement has become incapable of being performed.

This shows the carelessness and negligence that is prevalent in persons, who are discharging public duties. If persons who are discharging public functions remained negligent and reclariant like the officials of the Postal Department in the case on hand, even God cannot save this Country. We leave it to the wisdom of the Postal Department to initiate appropriate action against those persons, who are responsible for the failure of the project to provide a Post Office in a City like Coimbatore.

12. We direct the Postal Department to pay a cost of Rs.1,00,000/- to Cancer Institute, Adayar, Chennai for having wasted the time of this Court in various litigations ever since 1985 till 2023 for nearly 38 years. The cost shall be recovered from the Officers of the Postal Department responsible for the failure of the entire project.

(R.SUBRAMANIAN, J.) (P.VELMURUGAN, J.)

jv

18.03.2024



Cont. Pet. No.2814 of 2022

WEB COPY

Index : Yes
Internet : Yes
Speaking order
Neutral Citation: Yes



WEB COPY



Cont. Pet. No.2814 of 2022

R.SUBRAMANIAN, J.
and
P.VELMURUGAN, J.

jv

Pre-delivery order in
Contempt Petition No.2814 of 2022

18.03.2024