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Sub Appl (OS) No.252 of 2024
in Cont.P.No.645 of 2023
in W.P.No.1668 of 2022

J. NISHA BANU, J.
and
N. MALA, J.

The Contempt Petition is filed to punish the respondents for their wilful disobedience of the order passed by this Court in W.P.No.1668 of 2022 dated 07.09.2022. The said Writ Petition was allowed with the following directions:-

"5. In view of the above, while a direction to remove the encroachments from S.Nos.568 and 570 would not be given, however, the writ petition deserves to be allowed in reference to the prayer for maintenance of canal after making it free from encroachments. Accordingly, if any encroachment is found in the area of canal, it would be removed as per the provisions of law. The respondents are directed to maintain the canal to the extent it is indicated in the map furnished by them along with status report.

6. The writ petition is allowed. There shall be no order as to costs."

2. The Contempt Petition was closed on 24.08.2023 based on the status report filed by the respondents. In the status report, the respondents have stated that the property has been inspected and it was found that there is no encroachments and there is also no obstacles for the flow of water during the



inspection. Challenging the same, the present Sub Application has been filed to reopen the said Contempt Petition.

3. This Court, by its order dated 30.08.2024, appointed Mr.N.A.Nassir Hussain, learned counsel as an Advocate Commissioner for the purpose of conducting inspection and for filing report before this Court.

4. Today when the matter is taken up for hearing, the learned Advocate Commissioner filed a report dated 13.09.2024. The relevant portion of the report is extracted as followed:-

"10. It is submitted that admittedly, the water course is not seen to have been encroached in between its regular course to reach the Noyyal river. It is pertinent to mention that in S.F.No.569/5, in the canal, there is a Thotti (Pannai) of 1.9 meters width with the pipeline till the end of SF No.569/5. The same does not block the flow of water or encroach the water way but only is informed by the petitioner to be a bridge to facilitate access to adjoining lands without blocking the canal. However, as stated above, the grievance of the petitioner is that the adjacent private land owners in SF No.560/1 & 2 who enjoy the water running between SF No.560 and 561 should not in their private land do anything that would prevent the petitioner from enjoying the water in the canal which does not pass through the petitioner's land."



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5. As per the report of the Advocate Commissioner, there is no encroachment in the area of canal. Therefore, we are of the opinion that there is no valid reason made out to reopen the Contempt Petition. Hence, the Sub Application is dismissed.

[J.N.B., J.] and [N.M., J.]
13.09.2024

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