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Cont.P.No.3094 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Contempt Petition No.3094 of 2024

and

Sub.Appl.(OS).No.1135 of 2024

A.Mani

...Petitioner

Vs.

1.Tmt.P.Amudha, IAS
The Secretary
Revenue Department
Namakkal Kavignar Maligai
Government of Tamil Nadu
Fort St.George, Chennai – 600 009.

2.Thiru.T.Prabhushankar, IAS
The District Collector
Master Plan Complex NH 205
Chennai – Tiruttani Highway
Tiruvallur District
Tamil Nadu – 602 001.

3.Thiru.Waghe Sanket Balwant
The Revenue Divisional Officer
Revenue Divisional Office
85JW+J54, Railway Station Road
NGO Nagar Extension, Ponneri
Tamil Nadu – 601 204.



4.Mukesh
Managing Director
Suryadev Alloy and Power Private Ltd.,
No.298/2, New Gummidipoondi
Gummidipoondi Taluk
Tamil Nadu – 601 201.

...Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Court Act, seeking to punish the respondents for committing contempt of court for deliberate violation of the order passed by this Court in order dated 08.03.2024 passed in W.P.No.6208 of 2024.

For Petitioner : Mr.V.Ramamurthy

For Respondents : Mr.A.Selvendran
Spl. Government Pleader for RR2 to 3

Mr.N.Manoharan
for Mr.P.Krishnan for R4

ORDER

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

The Contempt Petition has been filed complaining disobedience of the order of this Court made in W.P.No.6208 of 2024 dated 08.03.2024.

2. According to the petitioner in the Writ Petition and the Contempt Petition, certain Government lands situate in Sirupuzhalpettai Village of



Gummidipoondi Taluk were encroached by the 4th respondent in the Writ Petition. A direction was sought for to the authorities to remove the encroachments. When the Writ Petition came up, a statement was made by the learned Government Advocate to the effect that the authorities would conduct a survey within a period of two months and depending upon the report of the survey, encroachment if any found would be removed in accordance with law. Recording the statement, the Division Bench of this Court, disposed of the Writ Petition.

3. Thereafter, nothing was done for some time. This Contempt Petition came to be filed on 13.09.2024. Immediately, the revenue authorities swung into action and the Tahsildar, Gummidipoondi, conducted survey on 01.10.2024, which is beyond the time agreed to before the Division Bench, and submitted a report stating that there have been encroachments in Survey Nos.93/2, 86, 94/1, 97, 100/2B, 78/3, 71, 96/1, 67, 106/1 and 107/3. Out of all these, Survey Nos.97, 100/2B are classified as 'Odai'. Survey No.71 is classified as 'Vaikkal'. Survey No.67 is classified as 'Kulam'. Survey No.86 is classified as 'Mayanam'.



4. Soon after the survey, a notice was issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act') on 18.10.2024. The 4th respondent in the Writ Petition filed his objections on 02.11.2024. An order under Section 6 came to be passed on 07.11.2024. Considering the scheme for removal of encroachment as provided by the Act, this Court has repeatedly held that it is incumbent upon the Tahsildar or an authorized officer to consider the objections to the notice under Section 7 of the Act and pass a speaking order before taking further action under Section 6 of the Act.

5. Evidently, the said procedure has not been followed. Order made under Section 6 of the Act, does not reflect consideration of the objections filed by the 4th respondent in the Writ Petition. It is only the form of warrant for removal of encroachment as prescribed in the rules that has been forwarded to the petitioner in the Sub-application. This procedure adopted is not in accordance with the procedure prescribed under the Act.

6. Unfortunately, the appellate authority under Section 10 of the Act



overlooked the flaw in the original order and confirmed it by giving its own reasons. This in our opinion would not meet the requirements of law.

Though we are exercising contempt jurisdiction, we find that these violations cannot be allowed. We therefore, set aside the order passed by the appellate authority as well as the original authority under Section 10 and 6 of the Act respectively. The notice issued under Section 7 is also set aside. The original authority will issue fresh notice under Section 7 of the Act and conduct enquiry on the objections, if any submitted by the alleged encroacher and pass a speaking order, considering the objections, before proceeding with the eviction.

7. Though we find that the action of the authorities is unpalatable, and the statement made before this Court has not been followed, considering the fact that the Sub-Collector is very young officer, we desist from imposing any punishment, with a sincere hope that he will not repeat the same irregularities in future. The presence of the Sub-Collector is dispensed with.



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8. Both the Contempt Petition and the Sub Application are disposed

of. No costs.

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(R.S.M., J.) (D.B.C., J.)

26.11.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-Speaking order



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and
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