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Cont.P.Nos.2255 & 3021 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.4.2024

Coram :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Contempt Petition Nos.2255 & 3021 of 2023
& Sub.A.No.701 of 2023

Perumal Mudaliar

...Petitioner in

Cont.P.No.2255

of 2023 & R1
in

Cont.P.No.3021

of 2023

Vs

1.Mrs.Lakshmi, Inspector of
Police, Mailam Police Station,
Mailam, Villupuram District.
604304.

...R1 in Cont.P.
No.2255 of 2023
& R2 in Cont.P.
No.3021 of 2023

2.R.Vijayasamundeeswari

...R2 in Cont.P.
No.2255 of 2023
& Petitioner in
Cont.P.No.3021 of 2023

PETITIONS under Section 11 of the Contempt of Courts Act, 1971



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praying to punish the respondents for wilfully disobeying the orders of this Court dated 25.8.2023 in W.P.No.25164 of 2023.

For Petitioner in Cont.P.
2255 of 2023 & R1 in
Cont.P.No.3021 of 2023

: Mr.K.Doraisamy for
M/s.Muthumani Doraisamy

For R1 in Cont.P.No.
2255 of 2023 & R2 in
Cont.P.No.3021 of 2023

: Mr.C.E.Pratap,
GA (CrI.Side)

For R2 in Cont.P.No.
2255 of 2023 & Petitioner
in Cont.P.No.3021 of 2023

: Mr.M.Govindaraju

COMMON ORDER

Common issues are involved in both these contempt petitions and hence, common order was passed.

2. Contempt Petition No.2255 of 2023 has been filed by the writ petitioner on the ground that the order passed by this Court in the writ petition on 25.08.2023 was not complied with.

3. Contempt Petition No.3021 of 2023 has been filed by the 4th respondent in the writ petition on the ground that the writ petitioner has



taken undue advantage of the order passed in the writ petition and has gone over board by demolishing the structure in the property and had taken illegal possession of the property.

4. Heard the respective learned counsel appearing for the parties.

5. On carefully going through the records, it is seen that a judgement and decree came to be passed in SA No.812 of 2013 based on the compromise that was arrived at between the plaintiff and the defendant in the suit. Even when the Second appeal was pending, the petitioner in Cont p No.3021 of 2023 had filed an impleading petition on the ground that her interest is affected with respect to the subject property. This impleading petition was also considered in CMP No.3417 of 2020 and the following findings was rendered by this Court.

10. Once the original parties, viz., plaintiff and the defendant have agreed to compromise their rights to the suit schedule property, the claim of 3rd party to be heard in this matter need not be entertained at all by this Court. This is more so, when the third party interest has accrued to her only pending litigation before the lower appellate Court as well as before this Court. Therefore, any supposed transaction is a pendente lite development and this Court is not



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bound to hear the third party. When the original parties have agreed to settle the lis between themselves, interest pendente lite, a party who acquired cannot prevent the parties from reaching settlement between them and in that view of the matter, this Court finds that the impleading petition need not be entertained. Moreover, when the appeal was pending before the lower appellate Court and also before this Court for a period, nearly seven years, no petition for impleadment was filed although the third party was in the know of things. Only when the parties proposed to compromise between themselves, the present impleading petition is moved by the third party in order to stall the compromise for serving her own ends. Therefore, this Court is of the view that the impleading petition in C.M.P.No.3417 of 2020 seeking for impleadment of the proposed third party deserve dismissed and the same is dismissed.

6. Pursuant to the above order passed, the 4th respondent in the writ petition also filed Rev.A No.59 of 2020 and 101 of 2021 to review the order passed both in the second appeal as well as in the impleading petition. These review petitions were dismissed by an order dated 05.07.2023.

7. The writ petitioner approached this Court seeking for police protection in line with the decree passed by the Civil Court. This Court also disposed of the writ petition by issuing directions to the police by



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order dated 25.08.2023.

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8. The counter filed by the respondent police in CP No.2255 of 2023 shows that the building in the property has already been demolished. For proper appreciation, the relevant portions from the counter are extracted hereunder :-

4. I submit that pursuant to the order dated 25.08.2023, 08.09.2023, a CSR No.1012 of 2023 issued by Tr.Murugandam. Sub Inspector of Police and the same was submitted before me and took up the petition for enquiry, after that called upon the petitioner and appeared before me and stating that he wants to put up fencing in the said property. Hence, after perusing the documents produced by the petitioner/Perumal Mudaliar, I have instructed the Sub Inspector of Police to provide police protection during the put up fencing and on the same day the Sub Inspector of Police went to petitioner's property along with his police persons wherein they provided protection to the petitioner while put up fencing. After completion of the said act CSR.No.1012 of 2023 was closed on the same day.

5.. I submit that on the very next day i.e.. 09.09.2023, the 2 respondent/R.Vijyasamundeeswari with help of the rowdy elements demolished the fencing of the petitioner's property.

6. I submit that with regarding the above, on 09.09.2023 the petitioner had lodged a complaint before the 1 respondent against the 2nd respondent /R.Vijyasamundeeswari.Based on the complaint, 1st respondent police registered a case in mailam police station crime No.514 of 2023 u/s.147, 341, 427 on 12.09.2023 at about 18.00



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hours by Tr.Tamilarasan, Special Sub Inspector of police and the same is pending under investigation.

7. I submit that during the course of pending investigation in Cr.No.514 of 2023, on 17.09.2023, the petitioner taking law in his hand without obtaining any competent Court to demolish the building which was in the possession of the 2nd respondent/R.Vijayasamundeeswari. Subsequently, the 2nd respondent/R.Vijayasamundeeswari has lodged a complaint against the petitioner/Perumal Mudaliar and 5 others before the 1st respondent. Based on the complaint, a case was registered in Mailam Police Station Crime No.529/2023, u/s.147, 148, 448, 506 (ii), 379 IPC and sec. 3 of PPD Act, 1992 on 17.09.2023 at about 15.00 hours by Tr. Muruganandam, Sub Inspector of Police and the same is pending.

8. I further submit that on the same day i.e., 17.09.2023 at about 14.30 hours, the 2nd respondent/Tmt.R.Vijayasamundeeswari and 2 others were conducted road rock in Chennai to Trichy National High Ways due to that, the 1st respondent police registered a case in Mailam Police Station, Crime No.528/2023, u/s.143, 147, 341 IPC on 17.09.2023 at about 15.00 hours by Tr.Chinnasamy, Sub Inspector of Police and the same is pending under investigation.

9. I submit that during the course of investigation which reveals the Petitioner/Perumal Mudaliar and 2nd respondent /Tmt.R.Vijayasamundeeswari were taking law in their hands without obtaining any appropriate order from the competent Court. I have taken all effective steps and ensure that there is no any law and order problem created by both the petitioner and the 2nd respondent/Tmt.R.Vijayasamundeeswari and I humbly submit that



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the order passed by this Hon'ble Court dated 25.08.2023 was complied in true letter and spirit and as such there is no will full disobedience on the part the 1st respondent.

9. While dealing with the contempt petition, this Court must only see if there is a contumacious conduct on the part of the respondent police in not complying with the order. The counter filed by the respondent police shows that the building in the property has been demolished and FIRs have been registered subsequently based on the complaints given both by the writ petitioner as well as the 2nd respondent and the investigation is pending. Hence, it is not necessary for this Court to pass any further order in both the contempt petitions.

10. It is left open to the petitioner in Cont p No.3021 of 2023 to work out her remedy in the manner known to law. As on today, there is no civil Court order or decree passed in favour of the said petitioner and the impleading petition and the review applications filed by the petitioner in CP No.3021 of 2023 has already been dismissed and as on today, no further action has been taken by the petitioner. In view of the same, no further orders can be passed by dealing with the right of the petitioner in CP No.3021 of 2023 and hence, this Court is reiterating that it is left to



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the petitioner in CP No.3021 of 2023 to work out her remedy in the manner known to law.

11. Both the contempt petitions stand closed.

12.04.2024

Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

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N.ANAND VENKATESH,J

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