



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Contempt Petition No.2492 of 2023

Suresh Guntur

... Petitioner

Vs.

1. S.Sivakumar
The Tahsildar,
Office of the Tahsildar,
TNHB Sholinganallur,
Chennai.

2. S.Sathyanarayanan

... Respondents

PRAYER : Contempt Petition filed under Section 11 of Contempt of Courts Act, 1971, pleased to punish the respondents for willful disobedience of the order dated 05.05.2023 passed by this Court in W.P.No.14368 of 2023.

For Petitioner : Mr.R.Chandrasudan

For R1 : Mr.E.Sundaram
Government Advocate

For R2 : Mr.R.Muralidharan



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ORDER

This petition has been filed seeking to punish the respondents in the provisions of Contempt of Court for their wilful disobedience of the order passed by this Court in W.P.No.14368 of 2023 vide order dated 05.05.2023.

2. It is the case of the petitioner that he had approached this Court in W.P.No.14368 of 2023, challenging the notice sent by the first respondent, the Tahsildar, Sholinganallur, vide proceedings in ந.க.எண்.1842/2023/ஆ2 dated 28.04.2023, for conducting a survey and this Court, after hearing the petitioner, by an order dated 05.05.2023, had directed the Tahsildar to conduct the survey in accordance with the directions issued in the order passed in W.P.(MD)No.28520 of 2022 dated 20.12.2022.

3. It is the further case of the petitioner that the survey was conducted behind his back, without affording sufficient opportunity for



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raising his objection and thereby, he had challenged the Survey Report dated 01.09.2023 before this Court in W.P.No.29299 of 2023 and this Court, by an order dated 07.11.2023, had set aside the Survey Report of the first respondent dated 01.09.2023. Alleging that the orders of this Court have not been strictly complied with and taking advantage of the survey report, the second respondent has demolished the existing construction put up by the petitioner, the present petition has been filed.

4. The first and second respondents have filed separate Counters.

5. Learned Government Advocate appearing for the first respondent submitted that only after issuance of due notice to the petitioner and all other adjacent land owners, the survey was conducted and the Report has been filed. He further submitted that the first respondent has complied with the order of this court in strict sense and he has not violated the same.

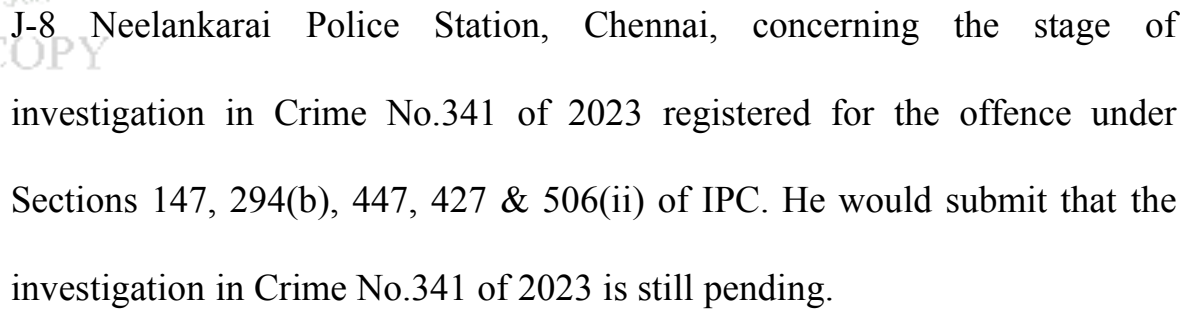
6. Learned counsel for the second respondent submitted that it is true that this Court, by an order dated 05.05.2023, had directed the first respondent to conduct a survey, according to which, the survey was



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conducted and the Report was filed. He further submitted that a perusal of the Report would show that the petitioner had made some encroachments and violated the orders of this Court and the petitioner himself had put up some additional structure. He also submitted that though the Survey Report of the first respondent has been set aside by the subsequent order passed by this Court in W.P.No.29299 of 2023 dated 07.11.2023, this Court, finding that the dispute is between the neighbour land owners with regard to title, possession and enjoyment of the properties, had directed the parties to approach the appropriate Civil Court to work out their remedy in the manner known to law. He further submitted that the second respondent has filed a suit in O.S.No.3 of 2024, which is pending on the file of the learned District Munsif, Alandur. He also submitted that without any substance, the present Contempt Petition has been filed by the petitioner and by filing this petition, the petitioner is attempting to enforce his right, which could be decided only by a Civil Court.

7. Pursuant to the order passed by this Court on 29.01.2024, Mr.S.Santhosh, learned Government Advocate (Criminal Side) has produced a Status Report before this Court today, on behalf of the Inspector of Police,



8. Heard the learned counsel appearing for the parties and perused the materials available on record.

9. In the peculiar facts and circumstances of the case, to arrive at a conclusion whether any contempt arises, this court feels it appropriate to recap the chronological events on the basis of the materials available, as under:-

i) A dispute appears to have arisen between the present petitioner and the second respondent herein with regard to their title, possession and enjoyment of some landed properties and a criminal complaint dated 24.3.2023 was lodged by the second respondent herein with the Inspector of Police (L&O), J8, Neelankarai Police Station, Chennai.

ii) Claiming that some boundary dispute exists between the parties,

the said police officer had submitted a request on 3.4.2023 to the first



b) Challenging the survey report of the first respondent, filed



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another writ petition in W.P.No.29299 of 2023 on **22.9.2023**.

c) Filed the present Contempt Petition on **27.9.2023** alleging willful disobedience of the order dated 05.05.2023 passed by this Court in W.P.No.14368 of 2023.

viii) This court, by order dated 7.11.2023, while setting aside the report of the first respondent herein observing non-compliance of the directions issued by this court, found that there is a dispute between the petitioner and the neighbouring land owners with regard to title, possession and enjoyment of the property and the same has to be decided by the appropriate Civil Court based on oral and documentary evidence and cannot be decided in the writ petition.

ix) The second respondent herein is said to have filed a suit in O.S.No.3 of 2024, which is pending on the file of the learned District Munsif, Alandur.

10. A contempt would arise only when an order passed by a court has not been complied with. Right or wrong the first respondent has conducted a survey and submitted his Report. From the above events, it could be seen that subsequent to the Report submitted by the first respondent



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herein on 1.9.2023, the writ petitioner had filed another writ petition in W.P.No.29299 of 2023 on 22.9.2023 challenging the validity or correctness of the report of the first respondent herein and invited an order on 7.11.2023 setting aside the report. When once the petitioner had challenged the outcome of the order passed by this court in another writ petition and obtained an order, no question of contempt would arise on the ground of non compliance of directions issued by this court in the previous writ petition.

11. Further, it is seen that in the meanwhile, the second respondent is alleged to have indulged into some demolition activities on 13.9.2023 resulting in another cause of action for which, the petitioner had lodged a criminal complaint against the second respondent herein and 20 others alleging that they had demolished his building and the same is pending in Crime No.341 of 2023 on the file of the Inspector of Police, J-8 Neelankarai Police Station, Chennai. With regard to the civil dispute, the second respondent is said to have filed a civil suit in O.S.No.3 of 2024, which is pending on the file of the learned District Munsif, Alandur. Therefore, this court is of the view that the petitioner cannot reopen and rake up the issue in the present Contempt Petition.



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12. With the above directions, the Contempt Petition stands closed.

However, it is made clear that the observations made by this Court in this Contempt Petition are only for the purpose of disposing the same and the same shall not have any bearing in the litigations pending between the petitioner and the second respondent before the Civil Court and in the case in Crime No.341 of 2023 being investigated by the Inspector of Police, J8 Neelankarai Police Station.

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A.D.JAGADISH CHANDIRA.,J.

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