



CONT.P.(MD)No.649 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

CONT.P.(MD)No.649 of 2024

Varalakshmi

... Petitioner

-Vs-

- 1.Mrs.M.S.Sangeetha,
The District Collector,
Office of the Collectorate Building,
Madurai District.
- 2.Mrs.Shalini,
The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Madurai District.
- 3.Mr.Sivakumar,
The Tahsildar,
Office of the Tahsildar,
Madurai North, Madurai District.
- 4.Mr.M.Mohan Gandhi,
The Divisional Engineer (H),

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NABARD & Rural Boards,
Highways Department, Madurai.

5.Mr.Anandh,
The Assistant Divisional Engineer (H),
Construction and Maintenance,
Madurai West, Madurai.

... Respondents

PRAYER: Petition filed under Section 11 of Contempt of Courts Act, 1971 praying this Court to punish the contemnors / respondents for the willful violation of the order passed in W.P.(MD)No.27708 of 2023, dated 23.11.2023.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.A.Kannan,

Additional Government Pleader

ORDER

[Order of the Court was made by *R.SURESH KUMAR, J.*]

This Contempt Petition has been filed, alleging disobedience of the order passed by this Court in W.P.(MD)No.27708 of 2023 dated 23.11.2023.

2.It was the allegation in the said Writ Petition by the petitioner that there has been an encroachment of the Government land and that has to be removed. The Division Bench of this Court had also given a direction by the said



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order dated 23.11.2023 that if there has been any encroachment, that can be removed and in this regard, as per the earlier order passed by this Court dated 12.10.2023 made in W.P.(MD)No.24679 of 2023, action has to be taken.

3.The said order, according to the learned counsel for the petitioner herein, is allegedly not complied with by the respondents. Therefore, that triggered him to file this Contempt Petition.

4.Pursuant to the notice, which was taken by the learned Additional Government Pleader, who appears for the respondents in this Contempt Petition, he has produced a copy of the report submitted by the Tahsildar along with the sketch.

5.By relying upon the report as well as the sketch, the learned Additional Government Pleader for the respondents contended that the disputed property in Survey No.146/2C1 belongs to a private party. Adjacently, there has been a property in Survey No.146/3A, which belongs to the petitioner. Insofar as the alleged encroachment is concerned, there has been a Tea Shop and a hotel has



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been constructed in part of the property, which is in Survey No.146/2C1.

Therefore, such an occupation is not in any Government land or road margin. But it is only a private land at Survey No.146/2C1. Therefore, no action can be taken by the revenue authorities as against such occupation of the private land.

6.The said position cannot be controverted by the learned counsel for the petitioner.

7.Since the petitioner is having property in Survey No.146/3A, which is adjacent to the alleged encroached area, which falls under Survey No.146/2C1, from such property if at all the petitioner wants to reach the main road, for which, she can maintain easementary right and if that is hindered by such occupation by the third party, the right of the petitioner can be established and the easementary right also can be established only by letting evidence before the civil Court, for which, the petitioner has to approach the civil Court. Therefore, this Contempt Petition cannot be entertained.



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8.Resultantly, this Contempt Petition fails and hence, stands closed.

[R.S.K., J.] & [G.A.M., J.]
11.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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