



Cont.P.No.2099 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.08.2025

PRONOUNCED ON : 29.08.2025

CORAM:

THE HONOURABLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

Cont.P.No.2099 of 2025
and Sub Appl (OS).No.755 & 756 of 2025

N.Jeyalakshmi

... Petitioner

Vs.

1. Anand Kumar Singh, I.A.S.,
Executive Magistrate/Sub Collector,
Thirukoilur,
Kallakurichi District.

2. Faizel Mohammed
3. Mohammed Alikhan
4. J.Balakrishnan
5. S.Abdulla
6. D.Faridha Banu

... Respondents

Prayer:- Contempt petition has been filed under Section 11 of the Contempt of Courts Act, 1971, praying to punish the respondents for disobedience of the order dated 22.04.2025 passed by this Court in W.P.No.32172 of 2024.



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For Petitioner : Mr.M.Vijayakumar

For Respondents

For R1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

For R2 & R3 : Mr.N.A.Nissar Ahmed,
Senior Counsel

For Mr.Nissar Hussain
For R5 & R5 : Mr.M.Mohamed Fiyaz Ali

ORDER

This Contempt Petition has been filed to punish the respondents for non compliance of the order dated 22.04.2025, passed by this Court in W.P.No.32172 of 2024, thereby dismissing the writ petition filed by the petitioner and confirming the order passed by the first respondent herein.

2. The petitioner filed the above writ petition in W.P.No.32172 of 2024, challenging the order passed by the first respondent dated 14.10.2024, passed under Section 165 of BNSS, thereby directing the A & B parties to approach the civil Court to ascertain their right over the property comprised in S.No.124/1 & 124/2 to an extent of 2.96 acres situated at T.Keeranur Village, Thirukoilur Taluk, Kallakurichi District. Till then, B party was permitted to worship in the said land without doing any construction and



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without disturbing the existing position by ordering status quo. This Court dismissed the writ petition and confirmed the order passed by the first respondent. Now the petitioner alleged that the order passed by the first respondent dated 14.10.2024 is violated by the respondents 2 to 6 by putting up constructions and also altering the property. Though it was brought to the notice of the first respondent, no action has been taken so far. Further alleged that the respondents 2 to 6 constructed super structure to a larger extent subsequent to the dismissal of the writ petition by this Court.

3. The learned counsel appearing for the petitioner submitted that under Article 226 of the Constitution of India, the contempt petition is very much maintainable, since the order passed by this Court is the Court of record and this Court has power to punish the contemnors for the disobedience. He also produced the photographs to show that some construction is now under painting.

4. The learned Senior Counsel appearing for the respondents 2 & 3 submitted that the contempt petition itself is not maintainable since this Court



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dismissed the writ petition and confirmed the order passed by the first respondent. This Court did not issue any directions and it is not obeyed and as such the respondents are not liable to punish under the Contempt Act. Section 10 of the Contempt of Court Act says that no High Court shall take cognizance of a contempt alleged to have committed in respect of a Court subordinate to it where such contempt is an offence under IPC. If any violation of the order passed by the first respondent, it is punishable under the penal provisions. Therefore, the present contempt petition is not at all maintainable and the petitioner ought to have approach the first respondent for appropriate relief. In support of his contention, he relied upon the judgment of the High Court of New Delhi in ***W.P.(C)No.4974 of 2012*** dated ***25.07.2013*** in the case of ***United Sports Traders(Delhi) Pvt Ltd., & anr Vs. Standing Counsel (Criminal) Govt. of Nct of Delhi***, which held that there are offence which are punishable as contempt under the Indian Penal Code and as subordinate Courts can sufficiently vindicate their dignity under the provisions of criminal law in such cases the legislature deemed it proper to exclude them from the jurisdiction of the High Court under Section 2(3) of the Contempt of Court Act.



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WEB COPY 5. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that there is no new construction put up by the respondents 2 to 6 in the subject property. They painted the old construction for worship. Further the writ petition was dismissed by this Court and as such no question of disobedience of any directions issued by this Court in order to initiate the contempt petition.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The petitioner filed a writ petition in W.P.No.32172 of 2024 challenged the order passed by the first respondent dated 14.10.2024. This Court dismissed the writ petition by observing that the petitioner has neither a valid lease agreement nor possess any enforceable documents under law to testify her occupation. Therefore, she can only be termed as encroacher as defined under Section 3(ee) of the Waqf Act, 1995 and dismissed the writ petition by confirming the order passed by the first respondent. The first



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respondent specifically directed both the A& B parties viz., the petitioner and the respondents 2 to 6 herein to approach the civil Court for declaration to their right over the property in accordance with law. Till then, the B party is directed to maintain status quo without putting any construction and without making any alteration and permitted to worship. Therefore, the Inspector of Police, Thirukovilur, was directed to hand over the subject land in favour of B Party.

8. On perusal of the photographs produced by the petitioner shows that the worship pillar of the Masoothi was painted by the respondents 2 to 6, which was in existence. Therefore, there is no new construction put up by them in the subject property. In fact, the petitioner did not even whisper that when the respondents 2 to 6 put up new construction and where the alleged construction was put up by them. Further this Court did not issue any directions while dismissing the writ petition, in order to violate the said direction to maintain the contempt action as against the respondents 2 to 6 herein.



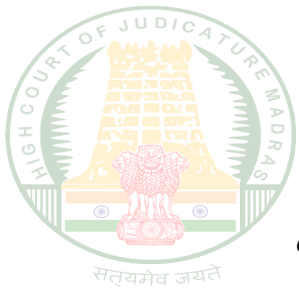
WEB COPY 9. Insofar as the maintainability of contempt petition as against the order passed by the first respondent is concerned, the violation of the order passed by the first respondent is punishable under Section 223 of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as “BNS”). It is relevant to extract the Section 223 of BNS as follows :-

“223. Disobedience to order duly promulgated by public servant.

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

(a) shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to two thousand five hundred rupees, or with both;

(b) and where such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment



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*of either description for a term which may extend to one year,
or with fine which may extend to five thousand rupees, or with
both.”*

Thus it is clear that for any violation of the order passed by the first respondent, the petitioner ought to have approached the first respondent for appropriate action. It is a matter for trial and it cannot be dealt by summary proceedings under the Contempt of Court Act.

10. Therefore when the remedy is very much available under Section 223 of BNS, the contempt petition under Sections 10 and 12 of the Contempt of Court Act before this Court cannot be maintainable. Further the contempt of Court is essentially a matter which concerns administration of justice and the dignity and authority of judicial tribunals. It is not a right of a party to be invoked for the redress of his grievance. It is not also a mode by which the rights of a party, adjudicated upon by a Tribunal, can be enforced against another party. In fact, in the case on hand, it requires a detailed enquiry and it must be left to the first respondent, who passed the order and which presumably is fully acquainted with the subject matter of its own order. Therefore, this Court cannot take cognizance for violation of the order passed



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by the first respondent when remedy is very much available before the first respondent. Moreover, no contempt is made out as against the respondents 2 to 6 for violation of the order passed by this Court, since this Court did not issue any directions for compliance.

11. In view of the above discussions, the contempt petition itself is not maintainable and it is liable to be dismissed. Accordingly, the Contempt Petition stands dismissed. Consequently, connected Sub Applications are closed.

29.08.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN, J.

rts

To

1. Anand Kumar Singh, I.A.S.,
Executive Magistrate/Sub Collector,
Thrukoilur,
Kallakurichi District.

2. The Public Prosecutor,
Madras High Court,
Chennai.

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