



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2025

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Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**Sub Application (OS) No.1317 of 2024
in Cont.P.DR.No.151081 of 2024**

1.M.Suganthy
2.Mathangy
3.M.Balaji

...Applicants

Versus

1.Sandhiya Makhizhanan
2.Dinesh Rajkumar Samuel
3.Elzha Samuel

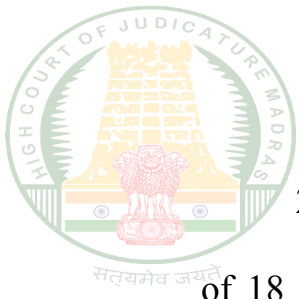
...Respondents

Sub Application filed under Section 151 of C.P.C praying to grant leave to the applicants/proposed respondent nos.10 to 13 in W.P.No.20717 of 2022 to file the Contempt Petition for the respondent's willful disobedience of the interim order dated 08.08.2022 in W.M.P.No.19805 of 2022 in W.P.No.20717 of 2022 passed by this Court.

For Applicants : Mr.J.Aravind
For Respondents : Mr.R.Jayaprakash

ORDER

This Sub Application has been filed by the applicants praying to grant leave to them to file the Contempt Petition as against the respondents for their wilful disobedience of the order of interim stay dated 08.08.2022 in W.M.P.No.19805 of 2022 in W.P.No.20717 of 2022 passed by this Court.

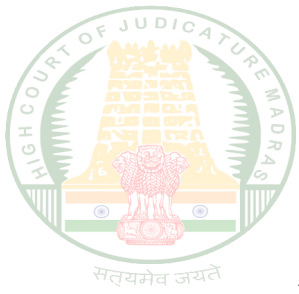


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2. The respondents herein have purchased a land measuring an extent of 18 cents situated at Sanganoor Village from one K.Balakrishnan. The Assistant Commissioner, West Zone, Coimbatore Corporation, Coimbatore District vide proceedings in Na.Ka.No.3500/2018/H-1(May) SPF.No.4460/2018 dated 31.12.2019, granted layout approval for the said land.

3. The respondents' vendor K.Balakrishnan is the brother of one K.S.Mani @ Subramani. As against the aforesaid proceedings dated 31.12.2019, the said K.S.Mani @ Subramani had filed a writ petition in W.P.No.6009 of 2021 before this Court which was disposed of on 16.08.2021.

4. Pursuant to the aforesaid order dated 16.08.2021 passed by this Court in W.P.No.6009 of 2021, the Assistant Commissioner, West Zone, Coimbatore Corporation, Coimbatore District vide proceedings in Na.Ka.No.4656/2022/H-1 (May) dated 11.07.2022, cancelled the layout approval granted on 31.12.2019. Challenging the same, the respondents herein had filed W.P.No.20717 of 2022 before this Court.



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5. The aforesaid K.Balakrishnan, vendor of the respondents (petitioners in W.P.No.20717 of 2022) was arrayed as 7th respondent in W.P.No.20717 of 2022 and his brother K.S.Mani @ Subramani was arrayed as 10th respondent in W.P.No.20717 of 2022.

6. During the pendency of W.P.No.20717 of 2022, the aforesaid K.S.Mani @ Subramani (10th respondent in W.P.No.20717 of 2022) died on 02.12.2022. After his demise, the applicants herein (wife & children of deceased K.S.Mani @ Subramani) have filed this Sub Application.

7. This Court vide its interim order dated 08.08.2022 in W.M.P.No.19805 of 2022, stayed the proceedings of the Assistant Commissioner, West Zone, Coimbatore Corporation, Coimbatore District in Na.Ka.No.4656/2022/H-1 (May) dated 11.07.2022.

8. It is to be noted that in the affidavit filed in support of W.P.No.20717 of 2022, particularly, in Paragraph No.7, the respondents herein (petitioners in W.P.No.20717 of 2022) undertook that they are ready



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to keep the Portion No.2 of the subject land measuring an extent of 3.1 cents vacant till the disposal of W.P.No.20717 of 2022. However, contrary to the said undertaking, the respondents (petitioners in W.P.No.20717 of 2022) have put up a temporary construction in Portion No.2 of the subject land.

9. The learned counsel for the respondents (petitioners in W.P.No.20717 of 2022) however submitted that even prior to the order of interim stay dated 08.08.2022 granted by this Court in W.M.P.No.19805 of 2022, the respondents (petitioners in W.P.No.20717 of 2022) had already put up a temporary construction in Portion No.2 of the subject land.

10. The above submission made by the learned counsel for the respondents is contrary to the undertaking given by the respondents (petitioners in W.P.No.20717 of 2022) in the affidavit filed in support of W.P.No.20717 of 2022.

11. This clearly shows that the respondents (petitioners in W.P.No.20717 of 2022) have violated the undertaking given by them in Paragraph No.7 of the affidavit filed in W.P.No.20717 of 2022. *Prima*



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facie, there is no doubt, the respondents (petitioners in W.P.No.20717 of 2022) have committed contempt of Court. Therefore, in order to protect the interest of the applicants, this Court is inclined to allow this Sub Application. Accordingly, the same is allowed.

12. Registry is directed to number the Contempt Petition, if it is otherwise in order and list the same for hearing on 21.03.2025.

13. In the meantime, the respondents (petitioners in W.P.No.20717 of 2022) shall remove the temporary construction put up by them in Portion No.2 of the subject land measuring an extent of 3.1 cents, failing which, Statutory Notice will be ordered to be issued to them on 21.03.2025.

05.03.2025

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Index : Yes/No



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C.SARAVANAN, J.

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