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Suo Motu Cont.P.No.3948 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

Suo Motu Cont.P.No.3948 of 2024

in

O.S.A.Nos.91 and 92 of 2024

High Court of Madras,
Madras - 600 104.

... Petitioner

Vs.

1.M/s.Benz Vaccations Club Public Limited,
Represented by its MD, Mr.Benz Saravanan,
New No.158 (781-785), Rayala Tower,
2nd Floor, Anna Salai,
Chennai - 600 002.

2.M/s.Benz Vaccations Club,
Represented by its President, Mr.A.Thanajayan,
New No.158 (781-785), Rayala Tower,
2nd Floor, Anna Salai,
Chennai - 600 002.

... Contemnors



Suo Motu Cont.P.No.3948 of 2024

WEB COPY Suo Motu Contempt Proceedings initiated under Section 11 of the Contempt of Courts Act, 1971, against the contemnors herein as per the order of this Court dated 28.11.2024 made in O.S.A.Nos.91 and 92 of 2024.

For Petitioner : Mr.J.Chandran Sundar Sashikumar
For Contemnors : Mr.SMS.Shriram Narayanan
: Mr.P.Valliyappan, Senior Counsel
for M/s.P.V.Law Associates
for appellants in O.S.A.Nos.91 & 92 of 2024

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This *suo motu* contempt proceedings is initiated for willful disobedience of the order of this Court dated 28.11.2024 made in O.S.A.Nos.91 and 92 of 2024.

2.Brief facts that are necessary for the disposal of this Contempt Petition are as follows :



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2.1.The contemnors are the defendants in the suit in C.S.No.113 of 2022 and appellants in O.S.A.Nos.91 and 92 of 2024. They took the suit property, namely, portion of the building (2nd Floor) measuring 11,195 sq.ft. of built up area, with 11 Car Parking slots and other common amenities, on lease. Under the lease agreement dated 01.08.2013 executed by plaintiffs in favour of appellants, rent payable from 10.10.2013 to 30.09.2016 is Rs.3,63,838/- per month; from 01.10.2016, the rent payable is Rs.4,18,469/- per month; and thereafter, the rent payable from 01.10.2019 is Rs.4,81,161/.

2.2.Alleging that the appellants had committed default in payment of monthly rent and had sublet the demise premises to third parties, plaintiffs after terminating tenancy, filed the suit in C.S.No.113 of 2022 with prayer to direct the appellants to deliver vacant possession and to pay a sum of Rs.1,93,30,946/- towards arrears of rent and other charges due till April, 2022, after deducting security deposit and to direct the appellants to pay damages for use and occupation at the rate of Rs.10,00,000/- per month from 01.05.2022.

2.3.Since appellants had not filed written statement in the suit, they had been set *ex parte* on 09.09.2022 and the plaintiffs were directed to



tender evidence. After hearing the parties and considering the oral evidence of P.W.1 and documents marked, the suit was partly decreed by granting a decree for possession and by directing the appellants to pay a sum of Rs.1,10,54,489/- towards rental arrears upto the date of suit and to pay at the rate of Rs.6,69,969/- per month till actual handing over of possession.

2.4.The appellants thereafter filed application to condone the delay of 36 days in filing the application to set aside the *ex parte* decree dated 19.10.2022 and to set aside the *ex parte* decree dated 19.10.2022 in Application No.4254 of 2023. Another application was filed by appellants in A.No.4255 of 2023 to condone the delay of 188 days in filing the written statement.

2.5.Pending applications, the appellants undertook to deposit a sum of Rs.50 Lakhs and sought for further time to deposit such amount. Though the said sum of Rs.50,00,000/- was tendered by way of a Demand Draft on 06.12.2023, no further amount was paid thereafter.

2.6.Learned Single Judge of this Court, by a common order dated 25.03.2024, dismissed both applications in A.Nos.4254 and 4255 of 2023, after elaborately considering the conduct of appellants.



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2.7. Aggrieved by the same, the appellants/defendants have preferred O.S.A.Nos.91 and 92 of 2024.

3. This Court, while admitting the Appeals, granted interim stay for a period of eight weeks, on 22.05.2024. Thereafter, the interim order was extended till 25.09.2024. Thereafter, the matter was simply adjourned on few occasions. When the Appeals were heard along with the petition for stay on 13.11.2024, it was represented by plaintiffs that they were unable to get vacant possession in the Execution Petition, as some third parties who are in possession had raised obstructions. Therefore, this Court directed the appellants to pay a sum of Rs.1,50,00,000/- within two weeks. Thereafter, on 28.11.2024, this Court, taking note of willful disobedience of the directions of this Court, initiated contempt proceedings suo motu against the appellants and directed issuance of contempt notice returnable in four weeks.

4. When the Appeals were listed on 10.01.2025, there was no representation for the appellants and hence, the Appeals were directed to be



listed on 20.01.2025 “for dismissal”. Even thereafter, a request was made for adjournment and the Appeals were adjourned to 23.01.2025. Even though the appellants challenged the order of this Court dated 13.11.2024 before Hon'ble Supreme Court, Special Leave Petitions were dismissed on 10.01.2025.

5. Having regard to the facts stated in the order that is impugned in the above Appeals and the subsequent conduct of the respondents, this Court is of the opinion that the respondents have willfully disobeyed the directions of this Court without any valid reason. Assuming for a moment, the appellants/contemnors are in possession of the property and not any third party as alleged, the intention of the respondents, even on the admitted facts, is very clear, to drag on the proceedings and not to pay even the admitted arrears, showing scant regard to the order of Court. Despite the stay was not extended, the respondents herein are continue in possession of the property of the plaintiffs which is in a busy commercial locality of Mount Road, but refused to pay the rent or the amount as directed by this Court.



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6.Despite the Special Leave Petition as against the order directing payment of Rs.1.5 Crores, being dismissed, the respondents have not paid any amount. Even in the affidavit, the respondents seek time and to exonerate them from the contempt proceedings without assigning any reason for the delay in complying with directions. This Court finds that the contemnors are only adopting delaying tactics. Learned Senior Counsel appearing for the appellants/contemnors repeatedly argued that the appellants have lost their business after Covid-19 Pandemic and therefore, they are unable to mobilise funds. The property is a valuable property and the rental arrears, even according to the contemnors, is calculated only on the basis of the alleged agreement in 2013. It is stated that an extent of 11,195 sq.ft. of commercial building is in the occupation of the respondents for commercial exploitation. This Court is unable to find any justification in the conduct of the respondents in refusing to pay the rent merely on the ground that huge sum of Rs.1.5 Crore could not be mobilised. The learned Senior Counsel very casually submits that the respondents are unable to mobilise funds despite being in occupation of commercial space of 11,195 sq.ft. in Mount Road with 8 Car Parking slots and other common amenities.



If this Court accepts such an explanation and condones the conduct, it will be injustice to the respondents in the Appeal. The arrears upto the date of suit is Rs.1,10,54,489/- and thereafter, from July, 2022, the amount payable is Rs.6,69,969/- per month. Except a sum of Rs.50 Lakhs paid during pendency of set aside petition, no amount is paid. Only about 60% of the rental arrears is directed to be paid. Nowhere in the affidavit, the contemnors have shown their inclination to pay the arrears or the monthly payments as per the decree.

7.The scope of the Appeals is limited. However, the disrespectful conduct of the contemnors, refusing to comply with the directions is willful and hence, should be taken serious note of, in the interest of justice, especially having regard to the facts and circumstances. Therefore, this Court finds that the respondents are guilty of committing contempt and this Court is unable to accept the reason for non-payment of rent or accept the unconditional apology. For the willful disobedience and for the attitude and conduct of the respondents showing scant regard to the order of Court, the respondents are liable to be punished for committing contempt.



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8. Accordingly, this Contempt Petition is allowed and this Court imposes a punishment of Simple Imprisonment for a period of one month to Mr. Benz Saravanan, Managing Director of M/s. Benz Vacations Club Public Limited, and Mr. A. Thanajayan, President of M/s. Benz Vacations Club, both at New No. 158 (781-785), Rayala Tower, 2nd Floor, Anna Salai, Chennai - 600 002. The respondents/contemnors are directed to surrender before the Registrar General of this Court, forthwith, who shall ensure the committal of the respondents/contemnors into prison to serve the punishment imposed on them. In case the respondents/contemnors fail to surrender, the Registrar General of this Court shall ensure the arrest of the respondents/contemnors and their committal into prison to serve the punishment imposed on them by this Court's order, through the Police having jurisdiction over the area of residence of the respondents/contemnors at that time. This order is suspended for a period of six weeks to enable the contemnors to prefer an appeal before the Hon'ble Supreme Court. In case, the contemnors deposit the money as directed by this Court within six



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weeks, from the date of receipt of a copy of this order, this contempt petition

shall stand closed and the contemnors shall be purged from contempt.

(S.S.S.R., J.) (P.D.B., J.)
29.01.2025

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Internet : Yes

Index : Yes

Neutral Citation : Yes

To

The Registrar General,
High Court of Madras,
Chennai – 600 104.



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