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Cont.P.No.1522 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE K.SURENDER

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- 1.Sukumar
- 2.K.Rajendra Karuppan
- 3.G.Deenadayalan
- 4.A.Palanivelu
- 5.K.Rajasekaran
- 6.G.Marimuthu
- 7.K.Paneerselvam
- 8.K.Ekambaram
- 9.K.Viswanathan
- 10.S.Sivaramakrishnan
- 11.Ezekiel
- 12.K.R.Kamalakar
- 13.P.K.Mohan
- 14.M.A.Selvaraj
- 15.S.S.Vasan
- 16.C.D.Shanmugasundaram
- 17.V.Gnanasekaran
- 18.P.S.Mohanasundaram
- 19.Dilvar Basha
- 20.R.Manivarma
- 21.A.Durairaj



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22.G.Krishnamoorthy

23.N.Mohan

24.T.Kalimuthan

25.C.Muthulingam

26.P.Ayyadurai

27.N.Subramaniam

28.K.Venkatraman

29.R.Rajesh

30.Saju Thomas

...Petitioners

Vs.

1.Athulaiah Mishra, I.A.S.,
The Secretary, Government of Tamil Nadu,
Department of Revenue,
Fort St. George, Secretariat,
Chennai – 600 009.

2.Pa.Ponnaiah, I.A.S.,
The District Collector,
The Office of the Collector Kancheepuram District,
Kancheepuram – 631 501.

3.V.Ravichandran,
The Tahsildar,
Taluk Office Sriperumbadur,
Kancheepuram District – 602 105.

...Respondents

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 praying to punish the respondents for wilful disobedience and violation of the orders passed by this Court in W.P.No.32501 of 2015 and W.P.No.26539 of 2009 dated 02.01.2017 as merged with the order dated 24.08.2017 made in W.P.No.12776 of 2017.



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For Petitioners : Mr.R.Thiagarajan

For Respondents : Mr.D.Ravichander,
Spl. Govt. Pleader

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The present Contempt Petition has been instituted to punish the respondents for their wilful disobedience of the order of this Court in W.P.No.32501 of 2015 and W.P.No.26539 of 2009 dated 02.01.2017 as merged with the order dated 24.08.2017 made in W.P.No.12776 of 2017.

2. The Contempt petitioner Ashok Leyland Employees Co-operative House Construction Society Limited, a Co-operative Society registered under the Tamil Nadu Co-operative Societies Registration Act filed W.P.No.32501 of 2015 seeking a direction against the State to implement the order passed in G.O.Ms.No.990, Revenue (D1) Department, dated 12.06.1990 by removing the encroachments in the lands assigned to the petitioner Association comprised in S.No.361/1B, Adhanoor Village, Sriperumbudur Taluk, Kanchipuram District, thereby allotting the same to the petitioner Society and issue patta to the allotted members of the petitioner Society.



3. The Division Bench of this Court passed orders on 02.01.2017 holding that the encroachments are identified in a portion of the land allotted to the petitioner Association. In respect of the said encroachments identified in a portion of the allotted land, the following orders are passed:-

5. We are unable to accept the said plea, as it runs contrary to the records. In fact, number of communications in this behalf were pointed out to us. The communications dated 28.01.2014, 25.02.2014, 29.05.2015 and 01.06.2015 would show an assurance held out to the Society by the authorities that the encroachments would be removed and even police assistance was sought. One wonders why the Government slept over the matter for so many years. Be that as it may, it is the State Government's responsibility to remove the encroachments and if that, in turn, requires making any alternate allotment, so be it. We are only concerned with the rights of the petitioner Society to get the lands in question as allotted by the order of the State Government.

6. We, thus, direct the respondent Authorities to proceed in accordance with law and take necessary steps to ensure that the remaining land allotted to the petitioner society is handed over free of encroachments within a maximum period of three months of the receipt of the copy of the order.

4. W.P.No.12776 of 2017 was instituted by one P.Venkatesan, who himself is the encroacher and the President of the Encroachers' Association in



the subject land. In his Writ Petition, he challenged the allotment order issued in favour of the petitioner Ashok Leyland Employees Co-operative House Construction Society Limited, in G.O.Ms.No.990 dated 12.06.1990, in so far as the S.No.361/1B measuring 20.02 acres are concerned. The Division Bench passed final orders on 24.08.2017 as follows:-

11. In the light of the above facts and circumstances of the case, the impugned notice dated 24.04.2017 issued by the third respondent, shall be treated as show cause notice and any one of the office bearers of the petitioner's association is at liberty to submit their response in the form of a detailed representation along with authenticated documents within a period of eight weeks from the date of receipt of a copy of this order to the third respondent and the third respondent, upon receipt of the same, shall put all the private respondents on notice and rely upon the materials in the form of relevant and authenticated documents and thereafter, conduct enquiry in accordance with law and pass appropriate orders within a further period of twelve weeks thereafter and communicate the decision taken, to the petitioner's association as well to the private respondents and till such time, Status Quo with regard to possession of the members of the petitioner's association, shall be maintained by all the parties to this writ petition. It is by the third respondent, the members of the petitioner's association shall not create any third party rights in respect of the land and superstructures in question and shall not alter the physical features and shall not commit further encroachments.



5. The Hon'ble Supreme Court of India in Special Leave to Appeal (C)

No.14265 of 2022 initially passed an order dated 22.08.2022 as under:-

Meanwhile, dispossession of the occupants on Survey No.361/1B (0.67 hectares) in Adhannoor Village, Sriperumbudur Taluk, District-Kanchipuram, Tamil Nadu, who are found to be in physical possession prior to 12.06.1990, shall remain stayed.

The State of Tamil Nadu through The Secretary, Department of Revenue is meanwhile directed to consider the claim for rehabilitation of the above mentioned persons in accordance with Government Policies/ Standing Order and submit a report on the next date of hearing.

We further direct that the families whose dispossession has been stayed, shall maintain status quo and no further construction at the site shall be raised by anyone.

6. Meanwhile, in the same Special Leave Petition further orders were passed on 29.01.2025 as under:-

1. This petition is not pressed with liberty to the petitioners to file an appropriate representation to the authority concerned.

2. if any such representation is filed the authority concerned may look into the same at the earliest. We do not express any opinion so far as the idea of preferring a representation is concerned.



3. *The petitions stand dismissed as not pressed accordingly.*

7. Under the strength of these orders passed in the Writ Petition filed by the petitioner Association as well as by the encroachers, Mr.R.Thiagarajan, learned counsel appearing for the petitioner Association would mainly contend that the land was allotted in the year 1990 to an extent of 89.7 acres. The said lands are to be allotted to the members of the Association, who are the employees of the Ashok Leyland Company. Encroachments were identified in a portion of the land measuring 1.65 acres. Admittedly, the remaining lands had been taken up by the petitioner Association and allotted to the respective members, who are all eligible and some portion of the lands are yet to be allotted. Unless remaining portion of the land measuring 1.65 acres are handed over to the petitioner Association, they may not be in a position to fulfil the requirements of all the members of the petitioner Association. Therefore, they have instituted the present Contempt Petition based on the orders passed by this Court directing the Government to evict the encroachers and hand over the balance land to the petitioner Association.

8. The learned Special Government Pleader would oppose by stating that efforts were consistently taken by the Government Authorities to handover balance portion of the land viz., 1.65 acres by evicting the encroachments. It



is not in dispute that the land to an extent of 89.7 acres were assigned in favour of the Ashok Leyland Employees Co-operative House Construction Society Limited, registered under the Tamil Nadu Cooperative Societies Act.

9. The last affidavit filed by the Tahsildar, Kundrathur Taluk dated 25.02.2026 would show that 215 individuals are residing in the encroached portion of 1.65 acres of land in S.No.361/1B. Since the Government after initiating enforcement actions unable to evict the encroachers had come up with an alternate proposal that the Government is ready and willing to allot alternate land in a nearby place measuring 1.65 acres. This proposal was placed before the Association.

10. Mr.R.Thiagarajan, learned counsel appearing for the petitioner Association would submit that all along the petitioner Association is fighting for resumption of the portion of the encroached land and they may not be in a position to accept the alternate land which is situated 5 Kms away from the originally allotted land.

11. Let us now consider the scope of the contempt proceedings. To punish an Authority under the contempt of Courts Act, an act of wilful disobedience is to be established. In the absence of any wilful disobedience, it may not be necessary to punish the Authority merely on the ground that they



are not in a position to do certain acts, which is beyond their control. In the present case, no doubt, 215 families have encroached upon the lands allotted to the petitioner Association measuring an extent of 1.65 acres. These 215 families are agitating through their Association and filing litigations after litigations. Despite enforcement actions initiated by the Authorities, the actions are prolonged and protracted.

12. The question arises is, whether it is necessary to entertain such Contempt Petition? In view of the fact that the lands were originally assigned in favour of the petitioner Association in as is where is condition in the year 1990, the petitioner Association themselves filed the Writ Petition in W.P.No.32501 of 2015 after a lapse of 25 years from the date of assignment. Therefore, one cannot presume when the actual encroachments are made by these 215 individuals. Whether these encroachments are made after assignment of land in favour of the petitioner Association in the year 1990 or even before that, those clear facts are not made available before this Court.

13. Even presuming that few encroachers encroached upon the land prior to assignment and few encroachers after assignment, once the land is assigned and Government Order passed in favour of the Association, which is a private body, then it is for them to initiate appropriate eviction proceedings to evict the encroachers, if required by instituting appropriate civil suit. That



apart, the lands are assigned in favour of private Association registered under the Cooperative Societies Registration Act. Under these circumstances, another question arises as to whether the Government is empowered to invoke the provisions of Tamil Nadu Land Encroachment Act, 1905 for eviction of encroachers, since the land does not belong to the Government after it being assigned in favour of the petitioner Association.

14. Despite these questions, this Court also has taken some efforts by directing the Authorities to evict the encroachers. After a lapse of six years, an affidavit is filed by stating that the Government is prepared to allot alternate land in view of multiple litigations subsequently instituted by the encroachers and several agitations by the encroachers Association in that locality.

15. No doubt, mere agitations or inability would be insufficient to hold that the Authorities have not committed any contempt of Court. The Authorities are bound to implement the orders of this Court. However, in the present case, this Court is of the view that the land was allotted in favour of the private Association in as is where is condition and therefore after assignment, it is for the Association to initiate actions to evict the encroachers and the burden of eviction need not be shifted to the Government Authorities, since they are not empowered to invoke the Tamil Nadu Land Encroachment Act against the persons who encroached upon private lands.



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16. In the present case, the land had already been allotted in favour of the private body. The sworn affidavit filed by the Tahsildar, Kundrathur Taluk, dated 25th February 2026 would show that the Government is ready and willing to allot alternate land to an equal extent of 1.65 acres in the nearby location. Therefore, it is for the petitioner Association to take a decision whether to institute a civil suit to evict the encroachers based on the original assignment by the Government in G.O.Ms.No.990, Revenue (D1) Department, dated 12.06.1990 or in alternate, accept the alternate land proposed to be assigned in favour of the petitioner Association to an equal extent of 1.65 acres. In the event of opting to accept the alternate land, the petitioner Association is at liberty to approach the Tahsildar, Kundrathur Taluk for initiating necessary actions for allotment of alternate land.

17. In view of the fact that this Court is unable to trace any wilful disobedience of the orders of this Court, further adjudication on the present Contempt Petition is unnecessary. Consequently, the Contempt Petition stands **closed**.

(S.M.S., J.) (K.S.,J.)
05.03.2026

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