

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.3.2008

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Contempt Petition No.246 of 2006

V.Arumugam Pillai .. Petitioner

vs.

1. Thiru A.S.Jeevarathinam I.A.S.,
Director of Town and Country Planning
807, Anna Salai, Chennai-600 002

2. Thiru K.E.Sella Perumal
President
Koothur Panchayat
Koothur, Manachanallur Panchayat Union
Thiruchirapalli District □ 621 216

3. Akilandam Chinnasamy
Present President,
Koothur Panchayat
Koothur, Manachanallur Panchayat Union
Thiruchirappalli District □ 621 216

4. R.Nehruji
s/o Ramasamy Pillai
4/122, Panamangalam
Koothur, Manachanallur Taluk,
Thiruchirappalli

5. D.Subramanian
s/o Durairaj
6-E/1, Rishivanam-Allithurai Road
Puthur, Thiruchirappalli 17 .. Respondents

(Respondents 3 to 5 are impleaded
as per the order of this Hon'ble Court
order dated 23.7.2007, in sub Application
No.174 of 2007 in Contempt Petition
No.246 of 2006)

The Contempt Petition has been filed under Section 10 & 12 of The Contempt of Courts Act, 70/71, to punish the respondents herein for wilfully disobeying the orders of this Hon'ble Court dated 8.9.2004, made in W.P.No.25414 of 2004, and thereby committing contempt.

For petitioner : Mr.Muthumani Doraisamy

For respondents : Mr.S.Gopinathan
Additional Government Pleader
for R1
Mr.T.R.RajaRaman for R2 and R3
Mr.K.Sanjay for R4 and R5

O R D E R

This contempt petition has been filed praying that this Court may be pleased to punish the respondents for committing contempt of Court by wilfully disobeying the orders of this Court, dated 8.9.2004, made in W.P.No.25414 of 2004.

2. It is stated by the petitioner that he is the owner of S.No.118/4, of Koothur Village, Manachanallur Taluk, Manachanallur Sub Registration District, Thiruchirappalli.

3. It is further stated that the third respondent in the writ petition W.P.No.25414 of 2004, is the owner of S.Nos.118/1 and 119/10 of Koothur Village. The lands of the third respondent are abutting the land of the petitioner in S.No.118/4. When the third respondent in the writ petition had applied for approval of lay out in respect of the lands in S.Nos.118/1 and 119/10, the first respondent, by his order, dated 3.12.2003, in Rc.No.17792/2003-LA-1, had approved the lay out submitted by the third respondent. As per the sanctioned lay out, the East-West Road of 23 feet width stretches upto to the land belonging to the petitioner in S.No.118/4. In the sanctioned lay out, it is mentioned that 20,698 square feet was reserved for the purpose of laying roads. While implementing the conditions stipulated for approval of the lay out, the third respondent had executed a Gift Deed, dated 20.1.2004, registered as document No.95/2004, mentioning the East-West Road of 23 feet width on the West of the petitioner's land bearing S.No.118/4.

4. It is further stated by the petitioner that based on the Gift Deed executed by the third respondent, the land shown in the Gift Deed vests with the second respondent Panchayat. Thus, the petitioner has got a right to use the East-West Road of 23 feet width to reach Chennai - Thiruchirappalli Main Road from the land belonging to the petitioner S.No.118/4. However, the third respondent had executed a General Power of Attorney, dated 11.2.2004, registered as document No.14/2004 in favour of one D.Subramanian, shown as the fourth respondent in the writ petition. Based on the General Power of Attorney, the fourth respondent has been attempting to obstruct the eastern end of East-West Road contrary to the conditions found in the approval of the lay out and the Gift Deed executed by the third respondent. Since the respondents 1 and 2 are duty bound to prevent the third and fourth respondents in the writ petition from violating the conditions of approval of the sanctioned lay out and the registered Gift Deed, the petitioner had issued a registered notice, dated 10.6.2004, to the respondents.

5. It is further stated by the petitioner that a reply, dated 25.6.2004, had been issued on behalf of the third and fourth respondents in the writ petition. In the said reply, it has been mentioned that a rectification Deed had been executed to delete some portions of the land, forming part of the registered Gift Deed. The petitioner had submitted that such a rectification Deed cannot be issued in violation of the sanctioned lay out and the registered Gift Deed. In such circumstances, the petitioner had filed a writ petition in W.P.No.25414 of 2004.

6. It is further stated by the petitioner that by an order, dated 8.9.2004, this Court had directed the first and second respondents to consider the petitioners' representation, dated 10.6.2004, on merits and in accordance with law, after giving opportunity to all the persons concerned, within a period of two months from the date of the order.

7. It is further stated by the petitioner that in spite of having knowledge of the order passed by this Court, the first respondent has not passed orders, even though the petitioner has issued repeated notices reminding the first and the other respondents to comply with the order passed by this Court, on 8.9.2004. In such circumstances, the petitioner has filed the present contempt petition to punish the respondents for wilfully disobeying the orders passed by this Court, on 8.9.2004, in W.P.No.25414 of 2004.

8. In the counter affidavit filed by the first respondent, he has tendered an unconditional apology in case it was found that he had committed contempt of Court, as alleged by the petitioner, by any act or omission.

9. It has been further stated that action had been taken by the first respondent in accordance with the directions issued by this Court, by its order, dated 8.9.2004. The first respondent by his letter, 24320/2004 GR, dated 24.12.2004, had passed an order directing the second respondent, who is the Executive Authority, to give final approval to arrange for an access to the land of the petitioner in S.No.118/4, as per the approved lay out, by removing the blockage of the road, if any, and to inform the first respondent about the action taken.

10. Thereafter, the second respondent and the President of the Koothur Panchayat had not accepted the revised Gift Deed and instead he has informed the first respondent, vide his letter, dated 18.8.2005, that the respondents 3 and 4 have been directed to hand over the balance portion of 182 square feet for the purpose of laying a road, as per the lay out approved.

11. The third respondent, who is the president of Koothur Panchayat, had also filed a counter affidavit tendering his unconditional apology. After receipt of the Telegram from the petitioner informing about the digging of a pit and keeping certain pillars on the road by the fourth and fifth respondents, he has instructed the counsel for the Panchayat to issue a suitable notice to them to restore the road to its original condition.

12. The fourth and fifth respondents have also filed counter affidavits stating that there is no blockage of the road and there is no hindrance to the public using the road freely and they had also tendered their unconditional apologies stating that they have no intention to disobey the orders passed by this Court.

13. In such circumstances, the petitioner has not been in a position to show that the respondents had committed contempt of Court, as alleged in his contempt petition. From the counter affidavits filed by the respondents, it is noted that there is no obstruction or hindrance for the use of the road

on the western side of the petitioner's land bearing survey No.118/4, in accordance with the sanctioned lay out. The petitioner has not refuted the contentions raised by the the learned counsels appearing for the respondents. Hence, the contempt petition stands closed. No costs.

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To:

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