

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2008

C O R A M

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

Contempt Petition No.580 of 2008

S.K.Arumuga Mudaliar ... Petitioner

Vs.

1) Mr.Maheasan Kasirajan
District Collector
Erode - 638 011

2) Mr.Annadurai
Tahsildar
Erode Taluk - 638 001

3) Mr.Avanasi Lingam
Block Development Officer
Modakkurichi Panchayat Union
Erode - 638 104

4) Mr.Thambi @ M.Ramalingam
President
Palamangalam Village Panchayat
Minnapalayam & Post
Sivagiri (via)
Erode Taluk and District ... Respondents

Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for their disobedience, willful non-compliance and utter disregard to court, justice and judicial system for violating the order of this Hon'ble court dated 04.02.2008 made in W.P.No.2642 of 2008.

For Petitioner : Mr.A.S.Palanisamy

For Respondent : L.S.M.Hasan Fizal
Government Advocate

O R D E R

Heard both sides and perused the records.

2. The petitioner herein had made a written representation to the Revenue officials seeking issuance of patta in his name to an extent of 5,940 sq.ft. comprised in R.S.No.312/4 at Minnapalayam, Palamangalam village panchayat, Modakkurichi Panchayat Union. As no orders were passed, the

petitioner approached this court by filing W.P.No.2642/2008 praying for issuance of a writ of mandamus directing the District Collector to direct the Tahsildar, Erode Taluk to issue either individual patta or joint patta in favour of the petitioner herein and his family members. This court, by an order dated 04.02.2008 disposed of the said writ petition directing the second respondent herein, namely Tahsildar, Erode Taluk to pass orders on the representation of the petitioner dated 10.01.2008 on merits and in accordance with the law within a period of four weeks from the date of receipt of a copy of the said order. This court, further directed that the status quo as on 04.02.2008 should be maintained till such time.

3. Complaining that the second respondent (Tahsildar, Erode Taluk) has not passed orders within four weeks from the date of receipt of a copy of the order of this court and that after belatedly passing orders on the representation of the petitioner and even before the expiry of the time for preferring an appeal there from, the respondents have formed a road across the said property, the petitioner has come forward with the present contempt petition praying that the respondents should be punished. The contention of the petitioner in this petition is two fold:- 1) the order of this court has not been complied with in its letter and spirit since the second respondent has chosen to pass orders on the representation of the petitioner beyond the period of four weeks from the date of receipt of a copy of the order of this court, and 2) by forming a road before the expiry of the time for preferring appeal against the order passed by the second respondent.

4. The learned Government Advocate representing the respondents would contend that it is not correct to state that the respondents have formed a road across the property; that there existed a cart track from time immemorial in the property, which according to the respondents is a 'grama nattham' and the petitioner was obstructing the public from using the same and that perhaps after the rejection of the application of the petitioner for grant of patta, public would have started using it once again. It is the further contention of the learned Government Advocate representing the respondents that even assuming without admitting that a cart track would have been formed by the 2nd respondent herein subsequent to the passing of the order of this court, the same may give rise to a cause of action for challenging the said action in any other appropriate proceedings before appropriate forum and that the same will never amount to contempt of court, as the status quo ordered by this court came to an end when the order of the second respondent was passed. This court, finds substance and force in the said contention raised by the learned Government Advocate representing the respondents.

5. It is not the case of the petitioner that a road was formed even before the disposal of the representation made by the petitioner. A proper construction of the order of this court dated 04.02.2008 will show that the direction to maintain status quo was restricted till the date of passing of an order by the 2nd respondent on the representation of the petitioner. Admittedly, the second respondent passed an order rejecting the prayer made by the petitioner for grant of patta in his proceedings Na.Ka.1735/2008/M10 dated 30.04.2008. However, the learned counsel for the petitioner pointed out the fact that the proceedings were drafted on 30.04.2008 and the order was signed by the second respondent only on 05.05.2008.

6. It is not the case of the petitioner that before 05.05.2008 any road was formed. On the other hand, as per the additional affidavit filed in support of the contempt petition, the road was formed only on 12.05.2008. Therefore, this court is not in a position to accept the contention of the petitioner that the formation of the road, if it is true, on 12.05.2008 will amount to contempt of court since by then the order of status quo had come to an end.

7. So far as the delay caused in passing orders on the representation of the petitioner is concerned, the learned Government Advocate representing the respondents has come forward with an

explanation that the extent claimed by the petitioner was not confined to particular Survey number but it embraced lands comprised in other survey numbers and properties belonging to others also which necessitated the second respondent to survey the land before passing orders and in such process, the delay became inevitable. However, for the delay of nearly 40 days caused in passing orders on the representation made by the petitioner, the learned Government Advocate expresses regret on behalf of the respondents. The same has got to be accepted and the contempt petition, according to the opinion of this court, shall be closed.

8. Accordingly, the contempt petition is closed.

31.07.2008

Index : Yes/No

Internet : Yes/No

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P.R.SHIVAKUMAR, J.

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