

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-01-2008

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Contempt Petition No.650 of 2004

S.J.Dominic .. Petitioner.

Versus

K.Somu .. Respondent.

Prayer: Petition under Section 10 and 12 of the Contempt of Courts Act, 70/71 to punish the respondents for having committed contempt of Court for disobeying the order, dated 06.08.2004 and made in W.P.M.P.No.27350 of 2004 in W.P.No.No.22624 of 2004.

For Petitioner : Mr.M.Suresh Kumar

For Respondent : Mr.S.Ravichandran

O R D E R

Heard Mr.M.Suresh Kumar, the learned counsel appearing on behalf of the petitioner and Mr.S.Ravichandran, the learned counsel appearing on behalf of the respondent.

2. This petition has been filed praying that this Court may be pleased to punish the respondent for wilful disobedience of the order of this Court, dated 06.08.2004, made in W.P.M.P.No.27350 of 2004 in W.P.No.22624 of 2004.

3. It is stated by the petitioner that he is the owner of the property with an extent of 2125 Sq.ft in Plot No.274, Palkalai Nagar, Palavakkam, Chennai. It has also been submitted that a larger extent of the property measuring 46.78 acres at Palavakkam Village had been purchased by the University of Madras from various vendors and the same had been plotted out, developed and allotted in favour of the non-teaching staff for residential purposes. Since the petitioner was working in the University of Madras, he was allotted the above mentioned property by way of a registered sale deed, dated 25.4.1992, registered as Document No.1557 of 1992 in the office of the Sub Registrar, Adyar. The University of Madras had obtained the necessary permission from the concerned authorities and had developed the land into house sites which were duly approved by the Madras Metropolitan Development Authority, vide PPS/L.O.No.15/81, dated 13.11.1981. The petitioner had also submitted that he had presented the building plan and had obtained permission to put up the superstructure on the plot allotted to him during the year 1994. The petitioner is in possession and occupation of the property for the past eleven years. On 2.8.2004, the respondent had threatened to demolish the compound wall of the petitioner without serving any notice on him stating that there was a road adjoining the petitioner's property.

4. In such circumstances, the petitioner had come before this Court by way of filing a writ petition in



W.P.No.22624 of 2004, praying for a writ of mandamus to forbear the respondent from demolishing the premises at Plot No.274, Palkalai Nagar, Palavakkam, Chennai-600 041. This Court by an order, dated 06.08.2004, granted an order of interim injunction in W.P.M.P.No.27350 of 2004, restraining the respondent, their men, agent or servant or any one claiming under him from interfering with the peaceful possession and enjoyment of the property of the petitioner at Plot No.274, Palkalai Nagar, Palavakkam, Chennai 600 041, pending disposal of the writ petition. The petitioner has further submitted that the copy of the order passed by this Court, on 06.08.2004, was made ready, on 10.08.2004, and it was served on the respondent, on 11.08.2004. In spite of having knowledge of the order, the respondent and his men had demolished the compound wall in the property of the petitioner, on 11.08.2004, amounting to wilful disobedience of the order passed by this Court, on 06.08.2004. Hence, the petitioner has preferred the present contempt petition.

5. A counter affidavit has been filed on behalf of the respondent stating that he is a law abiding citizen and he has no intention of violating the orders passed by this Court, on 06.08.2004. He had also tendered an unconditional apology, in case this Court finds that the respondent, in some way, had acted in violation of the orders passed by this Court. It is further stated that due to the encroachment of four feet pathway by the petitioner, the people of Palavakkam and some social organisers had made a representation to the respondent to initiate necessary action in pursuance of the representation. Thereafter, some persons had removed the construction put up by the petitioner, on 02.08.2004. Therefore, the respondent had made a complaint before the Inspector of Police, Neelankarai Police Station to restore peace and to remove the illegal encroachment of the pathway by the petitioner. It has also been submitted that one G.Selvaraj, who is the owner of the plot No.273 of Palavakkam Village panchayat, had executed a gift deed, dated 08.07.2004, in favour of Palavakkam Village Panchayat, granting 5 feet pathway for the use of the public in addition to the already existing four feet pathway. Pursuant to the execution of the gift deed, the compound wall in Plot No.273, belonging to G.Selvaraj had been demolished. The demolition of the compound wall in Plot No.273 had no connection to Plot No.274 of the property belonging to the petitioner.

6. On a perusal of the records available before this Court and in view of the submissions made by the learned counsels appearing on behalf of the petitioner, as well as the respondent, this Court is of the considered view that there is nothing to show that the respondent had wilfully disobeyed the order passed by this Court, on 06.08.2004, made in W.P.M.P.No.27350 of 2004 in W.P.No.22624 of 2004 to attract the provisions of the Contempt of Courts Act, 1971. Hence, the contempt petition stands closed. No costs.

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