

(2001) 03 MAD CK 0044

In the Madras High Court

Case No : Contempt Application No. 560 of 2000

Dr. Devendra

APPELLANT

Vs

The Commissioner, Corporation of Madras, Ripon Buildings,
Chennai and 4 others

RESPONDENT

Date of Decision : 02-03-2001

Acts Referred:

Contempt of Courts Act, 1971 — Section 12

Citation : (2001) CriLJ 4823 : (2001) 2 MLJ 10 : (2001) 4 RCR(Criminal) 13

Hon'ble Judges : N.K. Jain, C.J.;K. Sampath, J

Bench : Division Bench

Advocate : Mr. G. Subramanian, for Mr. K. Ravi Anatha Padmanbhan, for the Appellant; Mr. A.L. Somayaji, for Mr. R. Ramanlal, Mr. N.R. Chandran, for Mr. R. Gowthama Narayanan and Mr. R. Krishnamoorthy, for Mr. R. Gandhi, for Mr. P. Chandrasekaran, for the Respondent

Judgement

N.K. Jain, C.J.—This Contempt Application has been filed for punishing the respondents for non compliance and wilful disobedience of the

order of this Court dated 3.8.2000 in W.A. No.1171 of 2000, despite the receipt of the order. The parties to the contempt application are same

as in the writ appeal.

2. To substantiate, the applicant has filed a detailed affidavit stating that the fifth respondent has not been making the construction as per the

approved plan and rules. He also states that in W.P. No. 10965 of 2000 filed by the appellant on 30.6.2000, a learned single Judge of this Court

granted an interim injunction for a period of four weeks restraining the 5th respondent from constructing any further. The order was vacated by

another learned single Judge on 7.7.2000 on lunch motion as it was pleaded by the fifth respondent that on 6.7.2000, a stop-work notice was

issued by the second respondent, in response to which, a reply was sent along with the plan on 7.7.2000. On appeal by the applicant herein

against the interim order, it was argued that the fifth respondent was not making construction as per the approved plan and rules and if such

construction was permitted to be continued, at a later stage, he would seek ratification and therefore, he should not be permitted to continue the

construction and the construction should be stopped. To this, the fifth respondent submitted that there was no variation or deviation from the plan

and the construction was as per the approved plan. The second respondent submitted that at the time of inspection the plan was not available and

stop-work notice was issued on 6.7.2000 and they were going to issue a notice as contemplated u/s 256(3) of the Town and Country Planning

Act for alteration of the building. This Court, while considering arguments of the parties, in the interest of justice, allowed the fifth respondent to

make construction as per the approved plan, however made it clear that the fifth respondent should not take advantage of the order of this Court

for construction in variation of the approved plan or rules and could not seek ratification for the same in the instant case. This Court further directed

the fifth respondent to furnish an undertaking that if any construction was found in variation or violation against the sanctioned plan, the fifth

respondent would demolish the same on his own. This Court also made it clear that the second respondent was free to take any action for violation

against the fifth respondent and the pendency of the writ petition would not debar it. The applicant submitted that no such undertaking was filed as

per the order of this Court dated 3.8.2000 on 4.8.2000 and the undertaking alleged to have been filed on 4.8.2000 was false, The order of this

Court had not been complied with. It was also alleged that the fifth respondent was hurriedly constructing the building not as per plan without

furnishing the required undertaking. It was also alleged that Member-Secretary of the C.M.D.A. had stated in his letter dated 28.8.2000 that the

fifth respondent had not furnished any undertaking as ordered by this Court till 28.8.2000 besides stating that the second respondent noticed that

the fifth respondent was going on with the construction and that was verified by site inspection on 21.8.2000. It was also stated that the C.M.D.A.

admitted before this Court that there was deviation in the construction by the fifth respondent and the second respondent issued a caution notice in

"Dinathanthi" dated 26.8.2000 in which item No.30 related to the construction of the fifth respondent stating that the basement, ground floor and

two floors were being constructed in violation of the Building Rules. He relied on the decisions in Mohammad Idris and Another Vs. Rustam

Jehangir Babuji and Others, and Delhi Development Authority Vs. Skiper Construction Company (P) Ltd. and another, .

The applicant stated that till the moment of filing this application, the fifth respondent had been proceeding with the construction in flagrant violation

of the orders of this Court and if such practice was encouraged, then every building promoter would jolly well construct the building in violation of

the Building Rules. Therefore, the respondents had committed contempt of Court and were liable to be punished for wilful disobedience of the

order of this Court. Hence, this Contempt Application came to be filed on 5.9.2000.

3. When this application came for admission on 15.9.2000, Mr.S.Chandrasekaran took notice for the fifth respondent. In Sub-Application

No.332 of 2000, parties were directed to maintain status quo as on that date. Thereafter, it was submitted that the respondent was not making any

construction and status quo was directed to be continued until further orders on 13.10.2000.

4. The first respondent, Commissioner of Chennai Corporation, in his counter, submitted that the site was inspected on 6.7.2000, 21.8.2000 and

29.8.2000 by the C.M.D.A. officials and the construction by the 5th respondent was in deviation to the sanctioned plan dated 27.3.2000. The

approval was for basement floor, stilt parking floor plus four floors whereas on site, basement floor plus ground floor plus six floors had been

constructed. The basement floor, ground floor and three floors were deviated constructions, and the fourth to sixth floors were unauthorised

constructions. A revised demolition notice was also issued by the C.M.D.A. on 31.8.2000. The first respondent had also issued a provisional

order dated 3.7.2000 u/s 256 (3) of the M.C.M.C. Act, which was served on the fifth respondent on 18.8.2000 and the fifth respondent

requested not to take any further action as he had applied for regularisation vide letter dated 18.8.2000. The request for regularisation was

rejected by the second respondent on 14.9.2000. The fifth respondent requested not to take further action stating that an appeal u/s 79 of the

Tamil Nadu Town and Country Planning Act was being filed. As the appeal was filed, no further action could be taken. He also submits that if

even after his affidavit, this Court feels that he has committed contempt, he tenders his unconditional apology.

5. The second respondent, the Chairman, Chennai Metropolitan Development Authority, has filed three counter affidavits on different dates. It is

alleged in the first affidavit dated 10.10.2000, that the undertaking though dated 4.8.2000 was not received on any other date before 21.8.2000.

There was a meeting on 21.8.2000 and the Deputy Planner put up a note on 24.8.2000 to the Senior Planner. With the recommendations of the

Senior Planner, the file was sent to the Senior Law Officer on 28.8.2000 and to the Member-Secretary on the same date. After approval from the

Member-Secretary, a letter was addressed to the fifth respondent on 28.8.2000. It is also alleged that the file was in transit from the Deputy

Planner to the Member-Secretary from 21.8.2000 to 28.8.2000 and hence, the undertaking dated 4.8.2000, which was received in Tapal Section

on 21.8.2000 could not be put up along with the file before 28.8.2000. Subsequently, the undertaking dated 4.8.2000 along with the reply of the

fifth respondent to the letter dated 28.8.2000 of the second respondent, was put up. It is also verified that no such undertaking was received on

4.8.2000. It is also submitted that though the undertaking dated 4.8.2000 was received in tapal on 21.8.2000, as the file was in transit, the

undertaking could not be referred to in their letter dated 28.8.2000.

6. In his second affidavit dated 13.10.2000, he has stated that a revised demolition notice was issued on 31.8.2000 and while processing for

further demolition, it was ascertained that the fifth respondent had submitted an application on 19.7.2000 to the second respondent to regularise

the construction and the same was under scrutiny. It is also submitted that the application of the fifth respondent for regularisation was refused on

4.9.2000. They had initiated action even before the filing of the Contempt Application. Inspection was made on 26.9.2000 and 4.10.2000 and it

was found that the construction works had been stopped. It is submitted that while the undertaking of the fifth respondent was in transit, a letter

was issued to the fifth respondent copy marked to the writ petitioner to furnish an undertaking to C.M.D.A. in accordance with the judgment of

this Court, failing which this respondent had to demolish the construction. As nothing had been said regarding the actual filing of the undertaking, another affidavit was filed.

7. In his third affidavit dated 12.1.2001, the second respondent reiterated that the premises was inspected on 14.8.2000 and found that the construction had come upto the fifth floor columns being raised. On further inspection on 21.8.2000, it was found that the column was raised upto the fifth floor roof level. The office proceedings with regard to the number of the tapals is mentioned in detail. It is submitted that with regard to the affixture of seal in the undertaking of the fifth respondent, a preliminary enquiry was conducted and on verification of the records, it was ascertained that no letter was received by the tapal on 4.8.2000 and it was confirmed that it was received only on 21.8.2000. As it requires a detailed investigation, further course of action would be taken definitely against the individuals after getting the result of the investigation. It is submitted by the second respondent that at no point of time, he kept the file idle and all the effective measures have been taken periodically to stop the unauthorised and illegal activity of the fifth respondent and in spite of all the efforts, the fifth respondent proceeded with the construction up to 7th floor. Finally, the inspection was made on 26.9.2000 and 4.10.2000. There was no construction activity at the lime of the said inspection.

8. Respondents 3 and 4, the Executive Engineer and the Junior Engineer, Corporation of Chennai respectively, have adopted the counter filed by the first respondent. However, they have tendered unconditional apology and prayed that the application may be dismissed so far as they were concerned.

9. The fifth respondent in his counter submits that an undertaking, as directed by this Court, was submitted before the second respondent on 4.8.2000 itself, which has been reaffirmed by the further communication dated 30.8.2000. It is also stated that the State Government has introduced a scheme to regularise unauthorised construction and this respondent, to avoid legal complications, if any, that may arise in future, applied for rcularisation under the new scheme after filing a petition before this Court. He further submitted that the contempt application is filed with ulterior motive. He submits that the notification in the paper advertisement

dated 26.8.2000 is not a conclusive proof to hold that the fifth respondent has violated the order of this Court. It is submitted that he has continued his construction only after giving an undertaking as directed and as a matter of fact, he has stopped construction from the date of the order of this Court directing status quo. Hence, he prayed for the dismissal of the Contempt Application.

10. Mr. Ravi Anantha Padmanabhan, learned counsel for the applicant submitted that the fifth respondent has not filed the undertaking as per the direction of this Court but he wants to circumvent and justifies that he has filed on 4.8.2000. From the different affidavits filed by the second respondent, it is clear that they want to justify by saying that the undertaking was in transit and-just because a seal is affixed, it cannot be deemed that he had filed the undertaking in the absence of any positive admission on the part of the second respondent. The learned counsel submitted that he wants to take advantage of the averments made subsequently by the second respondent, which is nothing but an after thought to avoid contempt of court, and further submitted that the fifth respondent was making construction without filing the undertaking and that too against the approved plan and rather, he wants to take advantage of the revised plan, submitted by him later, which he cannot do in the light of the specific direction that the fifth respondent cannot seek ratification later on, by this Court in the order dated 3.8.2000. His letter dated 30.8.2000 says that he has filed the undertaking on 4.8.2000, which is false. It is clear as he later filed the undertaking dated 4.8.2000 on 30.8.2000 along with the letter.

11. We have heard the learned counsel for the respective parties and perused the materials on record. For holding liable in contempt what is necessary is to satisfy the conscience of the Court whether its order has been complied with by the party or not and whether the disobedience is wilful or deliberate. The applicant is only to place the facts, as it is settled that after the filing of the contempt application, the matter lies not between the parties, but between the Court and the person, who did not comply with the order of the Court. It is also well settled that the placing of justification and an unconditional apology, is not a complete answer for not complying with the order of the Court. The contemnor ought not to be permitted to escape liability for his acts of contempt. The Court can issue

appropriate direction to remedy and rectify the things done in violation

of its order in addition to punishing the contemnor for contempt. So, if an act is done in violation of an order of stay, injunction, or undertaking, it is

the duty of the Court, as a policy, to set the wrong right, and not to allow the perpetuation of the wrongdoing. Keeping in view the settled law

stated above, let us now consider the present case.

12. Mr. Subramanian, learned senior counsel for the applicant, submitted that the fifth respondent had not filed the undertaking in time as per the

order dated 3.8.2000, but continued the construction work till the notice and status quo order was passed in the contempt application on

15.9.2000.

13. Mr. R. Krishnamoorthy, learned senior counsel for the fifth respondent/contemnor submitted that this Court can only see whether the

undertaking was filed or not, and cannot go into the other facts, which have come on record. He further submitted that if their construction was in

violation of the approved plan, action can only be taken by the C.M.D.A.

14. To this, Mr. G. Subramaniam, learned senior counsel for the applicant, submitted that as per the order of this Court dated 3.8.2000, the fifth

respondent should have continued his construction without variation or violation of the rules and strictly as per the plan. Therefore, he has

disobeyed the order by not filing the undertaking in time and proceeding with the construction violating the approved plan. Therefore, such persons

should not be given indulgence.

15. Now, let us consider whether the fifth respondent had filed the undertaking in time or not. Admittedly, the fifth respondent had made the

construction without getting any further permission from C.M.D.A. for the sixth floor. He has made the construction with variation and in violation

of rules, despite the notices for demolition issued by the C.M.D.A. and the publication made in the newspaper. Further, according to the learned

senior counsel for the applicant, the fifth respondent has tried to mislead the Court, as if he had filed the undertaking on 4.8.2000, to justify his

conduct to the Court, without proper signature. It was not an undertaking at all. In the counter filed by the C.M.D.A, it has been stated that the

said undertaking was never received by the C.M.D.A. In the Weekly Review Meeting held on 21.8.2000, this matter was placed as item 38,

C.M.D.A., in its letter dated 28.8.2000, addressed to the fifth respondent, scales that the said respondent has not filed the undertaking as per the

order of the Court but progressing with the construction work, which was clear from the inspection on 21.8.2000. A copy of the said letter was

also marked to the applicant. Moreover, the ratification application was also dismissed.

16. The fifth respondent has not been able to show that the undertaking was received by the C.M.D.A. on 4.8.2000. Considering the arguments

and the respective affidavits and the explanations, to our mind, the explanation is not plausible or reasonable, to derive satisfaction that the order

has been complied with. A perusal of the alleged undertaking dated 4.8.2000 reveals that it has a seal without any specific signature. He has

mentioned in the undertaking, "I would like to hereby undertake to put up my construction at No.67, Usman Road, T. Nagar, Chennai 600 017 as

per the Approved Plan dated 27.03.2000 and revised plan submitted by me on 19.07.2000". Thereby, he wants to justify his construction by

adding, ".... and revised plan submitted by me on 19.7.2000" whereas this Court had allowed the respondent to make construction as per the

construction as per the approved plan, and to furnish an undertaking to the effect that, "if any construction was found in variation or violation

against the sanctioned plan, the fifth respondent would demolish the same on his own". Therefore, it was not at all an undertaking as ordered and

has to be construed as nothing but a camouflage to take advantage of allowing the construction and continue further. Hence, the undertaking, and

the re-affirmation by letter dated 30.8.2000 and the further explanation by different affidavits are not convincing. The mere mentioning in the letter

which was sent on a later date will not help the case of the fifth respondent, when admittedly the undertaking was not received by the C.M.D.A. till

21.8.2000 as per their reply also. We are not satisfied that the undertaking was filed in time. So, we are of the firm view that the fifth respondent

has not complied with the order of this Court.

17. Now, it has to be seen whether the non-compliance of the order by the fifth respondent is wilful or deliberate. To consider this aspect, we have

gone through the entire material; we find that there was an allegation that the fifth respondent was not constructing the building as per the approved

plan and this Court had permitted the fifth respondent, in the interest of justice, with specific condition that it should be without variation or violation

of the rules and as per the approved plan, and for that he has to furnish an undertaking to the C.M.D.A. to the effect that if any construction is

found in variation or violation against the sanctioned plan, he would demolish same at his own risk and cost. It is clear that without proper under

taking the construction was going on till the order of status quo dated 15.9.2000. Rather, they have constructed two additional stories. Though Mr.

K. Krishnamoorthy, learned senior counsel, suggested that this Court will not go into the effect of further construction in this contempt petition and

argued that it will only be considered by the C.M.D.A, it is not acceptable for the reason that admittedly, the fifth respondent was not making

construction as per the approved plan, more particularly, when his ratification application has also been rejected long back and he never sought for

any permission from this Court before making any construction and no application was brought to the notice of this Court. In other words, in the

interest of justice, he was allowed to proceed with the construction as per the plan subject to furnishing an undertaking, as stated. Under the

circumstances, the alleged facts themselves do not justify that he has made construction with bona fide intention or as per the order of this Court,

and this act will amount to deliberate and wilful violation of the order of this Court.

18. The learned senior counsel for the applicant submitted that the mere filing of another C.M.P. by the fifth respondent would not absolve him for

violation of the order of this Court, more so when the ratification was not permissible in the instant case and that he wants to take advantage of the

new Scheme for ratification framed by the C.M.D.A. after committing the contempt. To some extent, we agree with the argument.

19. On the basis of the facts culled out, as discussed above, it is clear that the fifth respondent has proceeded with the construction and put up the

seventh floor, till the status quo was ordered on 15.9.2000, which has not been disputed. We are prima facie satisfied that the fifth respondent has

committed contempt of Court. The case was again listed "for being mentioned"; and a show cause notice was issued as to why the respondents

should not be punished for contempt of Court. All the respondents were represented through their respective counsel including the fifth respondent

through Mr. R. Krishnamurthy, learned senior counsel, on 2.2.2001. The case was heard, however, adjourned to 19.2.2001. Mr. R. Gandhi, the learned senior counsel for the fifth respondent was present on 19.2.2001. The case was again adjourned to 28.2.2001. But came in the list on 27.2.2001 for "being mentioned" on the representation of Mr. Gandhi, senior counsel for the fifth respondent. He submitted that a SLP has been filed against the original order dated 3.8.2000 and therefore, the case be adjourned. To this, Mr. K. Ravi Anantha Padmanabhan, counsel for the applicant submitted that the respondent never intimated this Court earlier about the SLP and that too, it will not help for the contempt for the violation of the order of this Court for the subsequent events by proceeding with the construction without approved plan. The fifth respondent sought for adjournment earlier also and in the garb of some alleged compromise initiated to purchase the nearby land of the complainant so that the side set back will come within the permissible limit. According to the contemnor, as stated in Court, it did not materialise. He submitted that the fifth respondent was still doing construction despite his statement in the Court that he would not make any construction. He further submits that the second respondent made site inspections on 21.8.2000, 29.8.2000 and 12.9.2000. Stop notice was issued on 21.8.2000 and thereafter, on inspections by the second respondent on 29.8.2000 and 12.9.2000 it was found that considerable progress had been made from the fifth storey on 21.8.2000 to the seventh storey on 12.9.2000 from which it is clear that he had made construction even after the site inspection and dismissal of his ratification application, without challenging that at any point of time. Be that as it may, notice was issued to give an opportunity to hear before fastening the liability and imposing punishment. It is pertinent to note that the fifth respondent has never brought to the notice of this Court (that he ever challenged the order dated 3.8.2000 of this Court at any time. When this Court, after giving a full hearing, has come to a definite conclusion that the fifth respondent has wilfully and deliberately disobeyed the order of this Court by not filing the undertaking in time that too not a proper undertaking as required and proceeded with the construction in violation of the approved plan, we do not find any good ground to extend the time on the mere allegation of filing S.L.P., without there being any order produced. This conduct of the fifth respondent is nothing but abuse of the

process of the Court. Therefore, the fifth respondent is not entitled for any indulgence. We proceed to consider regarding punishment.

20. We are satisfied that the fifth respondent is guilty of violation of the order of this Court wilfully and has committed contempt of Court and not

satisfied with the explanation. In that event, if the act of the fifth respondent is condoned, it would be nothing more than encouraging illegal activities

and would diminish the image of the Court. This Court has jurisdiction and authority to protect itself from such act of abuse of process or hindrance

in its functioning for the noble cause of dispensing justice and to uphold the dignity of the Court. A reference can be made to M.I. Builders Pvt.

Ltd. Vs. Radhey Shyam Sahu and Others, , wherein in a park, which was leased to a builder, he has constructed a building without permission,

their Lordships ordered to demolish such unauthorised construction even though the builder invested considerable amount and also ordered to

enquire and find out how unauthorised construction was made. A reference can also be made to Pleasant Stay Hotel Case, 1995 W.L.R. 769,

wherein the Apex Court approved the order of demolition directed by the High Court of Madras in writ petition. Relying and on overall

consideration of totality of the circumstances of the case in hand, and as discussed, we direct the fifth respondent to demolish the alleged deviation

and unauthorised construction, which is against the approved plan, constructed after the order dated 3.8.2000, within one month from today, at his

own cost and risk, subject to further payment/deposit of necessary fine, if any, payable to the respondents 1 and 2 as per Rules to carry out such

demolition, failing which respondents 1 and 2 shall carry out the orders and recover the expenses for the same from the fifth respondent.

Considering the conduct and wilful disobedience, we are satisfied that it is a fit case for imprisonment but taking a lenient view, we impose only a

fine of Rs.10,000 to be deposited in this Court within one month from today. Accordingly, a fine of Rs. 10,000.00 is imposed on the fifth

respondent for contempt of Court.

21. So far as the contempt regarding respondents 1,3 and 4 are concerned, Mr.A.L. Somayaji, learned senior counsel, appeared and submitted

that for multi-storeyed buildings above one plus one, C.M.D.A. have to grant permission and jurisdiction go to them and permission was given only

for basement floor plus still parking floor plus four floors whereas the fifth respondent has constructed basement floor plus ground floor plus six floors. For that violation, they issued a notice on 21.6.2000 u/s 256 (1) and (2) of the M.C.M.C. Act. In the Writ Petition No. 10965 of 2000, interim order was granted on 30.6.2000 and vacated on 7.7.2000. Against that Writ Appeal was filed and status quo was granted on 24.7.2000 and ultimately the Division Bench passed an order dated 3.8.2000. Thereafter, the Corporation issued demolition order on 18.8.2000. Meanwhile, the fifth respondent filed an appeal u/s 79 of the Tamil Nadu Town and Country Planning Act on 16.10.2000. They could not take any action as the matter was pending in High Court, earlier before the single Judge and thereafter before the Division Bench, he submitted that they have full faith and never had any intention of disobeying the order of this Court. However, Dr. J. Radhakrishnan, Commissioner, Corporation of Chennai, submitted an unconditional apology in his affidavit dated 6.11.2000. On consideration, we accept the explanation offered by the respondents 1, 3 and 4 and find that there is no wilful disobedience of the order of this Court by the respondents 1,3 and 4. Contempt notices of the respondents 1,3 and 4 are discharged.

22. So far as the contempt regarding second respondent is concerned, Mr. N.R. Chandran, learned senior counsel, today appeared for the second respondent and submitted that the second respondent has full respect for the orders of this Court and he has not wilfully disobeyed the order of this Court rather has taken all steps. Mr. Jeyakodi, Member Secretary of the second respondent tendered an unconditional apology, and also filed an affidavit wherein it is submitted that a demolition notice was issued on 8.8.2000 and a notice for forfeiture of security deposit was issued. The site was inspected on 21.8.2000. A caution notice was published on 26.8.2000 and they also intimated to the fifth respondent calling for an undertaking with a copy to the applicant, as per the order of this Court. Again the site was inspected on 29.8.2000 and then they received the letter dated 30.8.2000 along with a copy of the undertaking dated 4.8.2000. They issued a letter dated 31.8.2000 forfeiting security. Again on 12.9.2000, the site was inspected. They rejected approval for revised plan and regularisation by letter dated 14.9.2000. He submitted that they

were ever vigilant and they have no intention of disobeying the order of this Court but due to the order of status quo dated 15.9.2000, no action

could be taken. He further submitted that pending Writ Appeal, they could not take any action. However, after the disposal of this application,

[they will take action as per the order. On consideration, we accept the explanation offered by the second respondent and we find that there is no

wilful disobedience of the order of this Court by the second respondent. Contempt notice to the second respondent is discharged.

23. However, we are not able to reconcile how the seal of the second respondent came to be affixed on the alleged undertaking, when according

to them, they have received the same at a later date on 30.8.2000. We direct the second respondent to conduct a detailed enquiry, as slated in

page 3 of their counter affidavit dated 12.1.2001 and take action as stated in paragraph 7 of this order against persons concerned accordingly. The

demolition report and the compliance report are directed to be sent to the Registry. We have considered the limited issue as to the violation of the

order of this Court dated 3.8.2000. From the beginning in the writ petition, there is an allegation that they were making construction with variation

and deviation without keeping back set off and violation of the approved plan.

As suggested by Mr.K. Krishnamurthy, learned senior counsel, regarding such construction, it will be considered by the respondents 1 and 2 and

the second respondent is free to take action in accordance with law. It is made clear that till the reports are submitted for compliance as stated

above, no fresh construction in the building shall be permitted in whatever manner by the fifth respondent or any persons on his behalf. As

discussed above, contempt notice to respondents 1 to 4 is discharged. The contempt application against the fifth respondent is allowed imposing

fine with the direction to demolish the unauthorised and deviated construction after 3.8.2000, within one month from today failing which the

respondents 1 and 2 will demolish the unauthorised construction as indicated above and direct respondents 1 and 2 to comply with the direction in

accordance with law. The costs of the Contempt Application, which is quantified at Rs.5,000 is to be borne by the fifth respondent payable each

to the applicant and the respondents 1 and 2. Since we have already directed to demolish the construction, it is not necessary to pass order of

status quo restraining the fifth respondent from making any further construction. Accordingly, Sub-Application No.332 of 2000 is disposed of.