

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20 - 07 - 2015

CORAM:

THE HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA

Contempt Petition No. 1485 of 2015

Arulmighu Kancheeyappa Iyanar
Thoondikaran and other Parivarangal
Equipped Thirukoil Marulaligal by

1. Subramanian

2. Nagappan

... Petitioners

Vs.

Jagadeesa Thevar

... Respondent

Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for committing contempt of decree and judgment dated 20.3.2014 passed in S.A. No. 512 of 2006.

For Petitioners : Mr. Pa. Kadirvel

सत्यमेव जयते
ORDER

The Marulaligal of the Arulmighu Kancheeyappa Iyanar Thoondikaran and other Parivarangal Equipped Thirukoil have filed this Contempt Petition seeking to punish the respondent for having committed the alleged contempt of judgment and decree of this Court dated 20.3.2014 passed in S.A. No. 512 of 2006.

2. Heard Mr. Pa. Kadirvel, learned counsel appearing for the petitioners and perused the records.

3. From the materials available on record, it is seen that the petitioners filed O.S. No. 173 of 2003 on the file of the District Munsif Court, Nagapattinam, for the relief of bare injunction restraining the respondent and another from interfering with their peaceful possession and disturbing them in any manner with their worship of the suit temple. The said suit was decreed in favour of the petitioners and the First appeal filed as against the same before the Lower Appellate Court, was also dismissed. The defendants also preferred further appeal before this Court in S.A. No. 512 of 2006 wherein the concurrent finding of the Courts below was affirmed vide judgment and decree dated 20.3.2014.

4. It is alleged by the petitioners that the respondent and his son had set fire to the thatched shed on the suit property on 30.4.2014 and the temple administration committee had lodged a complaint against them which is registered as Crime No. 43 of 2014. The respondent also had filed a complaint in Crime No. 42 of

5. According to the petitioners, though the suit was decreed concurrently in their favour, the respondent has willfully disobeyed the same. Admittedly, the parties have given complaint against each other mutually for the alleged criminal conduct. While so, there is no question of act of contempt committed by the respondent.

6. In the case on hand, the petitioners have filed the Contempt Petition under Section 11 of the Contempt of Courts Act which is not maintainable. The petitioners, having taken appropriate action under criminal law for the act of the respondent, cannot bring it under the definition of civil contempt. The petitioners had also not made out a case that there is willful disobedience of the judgment and decree. सत्यमेव जयते

7. No doubt, Section 11 provides power to the High Court to inquire into or try whether a person is guilty of contempt. The grievance of the aggrieved party has to be examined in deciding the contempt. Since the appeal against the decree of the trial Court was dismissed by this Court, the judgment and decree of the High Court merges with the decree of the trial Court. Moreover, as the

petitioners have already taken recourse to law by giving a criminal complaint, this Contempt Petition is not maintainable.

In view of the above, this Contempt Petition is dismissed as not maintainable.

gri

SD/

DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER (O.S.)

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SS/CO/10/08/2015

One CC to Mr.Pa.Kadirvel, Advocate, SR.9152