

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

Contempt Petition No.3367 of 2014

in

W.P.No. 33936 of 2013

Tamil Nadu Temple's Retired
Employees Association
rep by its President C. Kandaswamy ... Petitioner

Vs.

Mr. P.Dhanapal
The Commissioner
Hindu Religious cum Charitable Endowment
Nungambakkam, Chennai - 600 034. ... Respondent

Contempt Petition filed praying to punish the respondents for wilful disobedience of the order of this Hon'ble Court dated 07.04.2014 made in W.P. No. 33936 of 2013 and pass further orders.

For Petitioner : M/s. R. Gouri

For Respondent : Mrs. Rita Chandrasekaran
assisted by Mr. K.V. Dhanapalan,
Additional Govt. Pleader

ORDER

The petitioner has come forward with the present Contempt Petition for the wilful disobedience of the order of this Court dated 07.04.2014 made by the respondent in W.P.No.33936 of 2013.

and 6009 of 2013, the learned counsel appearing for the Devasthanam has undertaken that requisite payment would be made to the employees, based on which the Hon'ble Supreme Court has passed interim orders. Hence, this Court has directed the petitioner Association to make a fresh representation and the second respondent to consider the same in accordance with law and in the light of the interim orders of the Hon'ble Supreme Court in SLP Nos. 6008 and 6009 of 2013. Whether the petitioner Association is entitled to the relief *de hors* the decision rendered in W.P.No.33936 of 2013 can be decided only in the Writ Appeal and admittedly the Writ Appeal is pending before this court.

3. In a similar circumstance, this Court vide order dated **25.02.2016** in **Contempt Petition No.1329 of 2015**, placing reliance on the decision of the Apex Court in the case of **Kunhayammed and others vs. State of Kerala and another**, (2006) 6 SCC 359, has held as under:

"5. With reference to the three-Judge ruling in **Kunhayammed** case, a two-Judge Bench in the above case of **K.K.Dineshan**, in exercise of the powers under Articles 129, 136 and 142 of the Constitution of India, has directed the complainant therein to approach the High Court. But, this Court is not inclined to accept the contention of the counsel for the petitioner in view of the finding of the Apex Court in paragraph 14 of **K.K. Dineshan's case**, which would

read thus:

"14. We are mindful of settled

law that the orders passed by the High Court would merge with the order passed by this Court. ..."

6. Once the order passed in a Writ Petition gets merged with the order of the Writ Appeal, the remedy available to the petitioner is to file a Contempt in the Writ Appeal and not in the Writ Petition, unless and until the Apex Court specifically directs the High Court to decide the issue. Thus, in view of the principle of Doctrine of Merger discussed above, **this Contempt Petition cannot be adjudicated and hence, it is closed.**"

4. Thus, taking note of the ruling of the Hon'ble Supreme Court in **Kunhayammed's** case, which has elaborately dealt with the principle of Doctrine of Merger and considering the fact that the Writ Appeal has been admitted, this Court is of the view that the Contempt Petition ought to be closed. Accordingly, the Contempt Petition is closed.

avr/aeb

SD/-

DEPUTY REGISTRAR (OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER (O.S.)

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