

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE M.SUNDAR

Contempt Petition No.1199 of 2017

Shankari Ammal

...Petitioner/Applicant/
1st Defendant

Vs.

P.Sakthi, Fit Person
Sri Loga Vinayagar Temple
Having office at
Aarulmigu Sundaraswarar Temple
Brahmin Street
Saidapet
Chennai - 600 015
and also
Functioning as the Fit Person
Pursuant to the appointment
Made by HR&CE Department

...Respondent/Respondent
Plaintiff

Prayer : Petition filed under Section 11 of Contempt of Courts Act, to punish the Respondent for disobeying the order of this Hon'ble Court dated 25.11.2016 passed in Original Application No.902 of 2016 in C.S.No. 1668 of 1992.

For Petitioner : Mr.A.R.Nixon

For Respondent : Mr.A.K.Sriram
of M/s.A.S.Kailasam Associate

O R D E R

Today, Mr.A.R.Nixon learned counsel for petitioner

is before this Court. Mr.A.K.Sriram of M/s.A.S.Kailasam

<https://hcservices.ecourts.gov.in/hcservices/>

Associates, Law firm, is before this court on behalf of

lone respondent in this contempt petition and lone respondent has filed an additional affidavit dated 03.03.2018 today i.e., 05.03.2018 before this court.

2.It is necessary to reproduce the additional affidavit, which reads as follows:

"I, P.Sakthi, Son of A.Perumal, Hindu, aged about 37 years, working at Arulmigu Renganatha Perumal Thirukoil, Thiruneermalai, Chennai - 600 044, do hereby solemnly and sincerely affirm and state as follows:-

1.I am the Respondent herein and am well acquainted with the facts of the case from records and personally as well.

2.I state that the above Contempt Petition has been filed alleging disobedience of the order of this Hon'ble Court dated 07.10.2016 and 25.11.2016. I state that the basis for the same is the resolution dated 28.11.2016 and the complaint dated 05.12.2016 given by the Fit Person to the asst. Commissioner, HR &CE Dept. I state that proceedings under S.78 are pending before the Joint Commissioner, H.R.&C.E.Dept.

3.I state to comply with all the orders of the Hon'ble High Court in letter and spirit, the letter dated 19.09.2016 has been withdrawn and an affidavit to that effect has been filed by the present Fit Person before the Joint Commissioner in the proceedings under S.78 of the Act, in and by which, the resolution dated 28.11.2016 as well as the complaint of the Fit Person/Executive Officer of the Temple dated 05.12.2016 have been withdrawn. The proceedings under S.78 have been

started based on the resolution dated 28.11.2016 followed by the complaint dated 05.12.2016 by the Fit Person to the Asst. Commissioner, H.R.&C.E. Department. I state that the Resolution and the complaint refer to letter dated 19.09.2016 which has been kept in abeyance by the Hon'ble Court in O.A.No.902/2016 in C.S.No.1668/1992. I state that in the above circumstances, both the resolution and the complaint have been withdrawn and an affidavit to that effect filed by the Fit Person before the Joint Commissioner. I state that the Joint Commissioner has taken the affidavit on record and has passed an order dated 21.02.2018 recording the affidavit and dropping proceedings under S.78, a copy which is filed in a Typed Set along with this additional affidavit.

I therefore pray that this Hon'ble Court may be pleased to receive this additional affidavit take on record and drop the present contempt proceedings against me and render justice."

सत्यमेव जयते

3.As would be evident from the caption this is an additional affidavit. Earlier affidavit of the lone respondent is dated 26.08.2017.

4.In the original affidavit filed by the lone respondent dated 26.08.2017, an averment has been made by the lone respondent, which reads as follows :

<https://hcservices.ecourts.gov.in/hcservices/> "At the outset, I state that I have not committed any act of contempt and if this Hon'ble

Court were to come to the conclusion that I have committed any act which is in disobedience of the order Hon'ble Court, I tender my unqualified and unconditional apology for the same."

5.Mr.A.K.Sriram, learned counsel has also placed before me an order of Joint Commissioner of Tamil Nadu Hindu Religious and Charitable Endowments Department, dated 21.02.2018 being an order in proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1958. I deem it appropriate to extract the order, which reads as follows:

"The above case having come on hearing on 21.02.2018, the second Petitioner has filed an affidavit to withdraw the case and for consideration, the Joint Commissioner passes the following order.

An affidavit has been filed by the Fit Person/Executive Officer of Arulmigu Logavinayagar Temple, Maduvankarai, Guindy, Chennai - 600 032. These proceedings have been started under Section 78 of the Hindu Religious and Charitable Endowments Act based on a resolution dated 28.11.2016 followed by a complaint dated 05.12.2016 by the Fit Person to the Assistant Commissioner, H.R.&C.E. Department. The Resolution and the complaint refer to letter dated 19.09.2016 which has been the subject matter of O.A.No.902/2016 in C.S.No.1668/1992. By order dated 07.10.2016, the Hon'ble High Court has kept the letter dated 19.09.2016 in abeyance.

In the above circumstances, and to comply with all the orders of the Hon'ble High Court in letter and spirit, it has been decided to withdraw the said letter dated 19.09.2016, the resolution dated 28.11.2016 as well as the complaint of the Fit Person/Executive Officer of the Temple dated 05.12.2016.

Accordingly, this affidavit is taken on record and the proceedings under Section 78 are closed. The Temple is at liberty to proceed further as per the orders of the Hon'ble High Court in C.S.No.1668/1992."

6.The aforesaid additional affidavit and order passed by the Joint Commissioner of Tamil Nadu Hindu Religious and Charitable Endowments Department, puts an end to the basis on which this contempt petition was filed and the basis on which breach of an order of this court was brought to my notice in this contempt action.

7.The aforesaid affidavit dated 26.08.2017, additional affidavit dated 03.03.2018 and proceedings of joint commissioner dated 21.02.2018 have been served on Mr.A.X.Nixon.

8.Recording the aforesaid proceedings, which have been extracted, reproduced and recording the unconditional apology, I discharge the respondent of contempt, holding

that the respondent has purged himself from contempt.
Contempt petition is closed. No costs.

9.I place on record the fair stand and efforts
taken by A.K.Sriram of M/s. A.S.Kailasam Associates in this
matter.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)
maya

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

from 25th day of September 2008 the Registry is issuing
Certified copies of the Orders/Judgments/Decrees in this
format.

CO/10/04/2018

one cc to Mr. A.R. Nixon, SR.No.3710.

One cc to M/s. A.S. Kailasam & Associates, SR, No.3623

To

The Sri Loga Vinayagar Temple
Having office at
Aarulmigu Sundaraswarar Temple
Brahmin Street
Saidapet
Chennai - 600 015.

WEB COPY