

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.191 of 2019

S.T.Rajendran

... Petitioner

vs.

Nandhakumar,
Revenue Divisional Officer,
Ponneri,
Thiruvallur District.

... Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, praying to punish the Respondent for the act of wilful disobedience and non-compliance of the order dated 17.07.2018 made in W.P.No.28283 of 2017.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.P.Sivashanmugasundaram,
Special Government Pleader

O R D E R

When the matter is taken up hearing today, it is represented by the learned Special Government Pleader appearing for the Respondent that the order under contempt has been challenged before a Division Bench of this Court in W.A.No.1363 of 2019 and an interim order has been granted vide order dated 11.04.2019.

2. In view of the submissions of the learned Special Government Pleader, Contempt Petition will not lie against the order passed in W.P.No.28283 of 2017.

Merger has been widely discussed. With reference to the three-Judge ruling in **Kunhayammed** case and yet another decision of the Apex Court in the case of **Dineshan, K.K. vs. R.K.Singh** reported in (2014) 16 SCC 88, this Court is of the view that 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.

4. Thus, in view of the principle of Doctrine of Merger discussed above, **the present Contempt Petition cannot be adjudicated and hence, it is closed.** However, it is open to the Petitioner to work out his remedy in the manner known to law.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

aeb

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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Mv/04/07/2019