

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

Contempt Petition No.1888 of 2018

R.Vasudevan

.. Petitioner

Vs

Mr.Ramachandran
Assistant Director of Survey
and Land Records, Tiruvallur
Tiruvallur District

.. Respondent

Prayer :- Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for wilful disobedience of the order of the court dated 08.06.2015 passed in W.P.No.16100 of 2015,

For Petitioner : Mr.C..Prakasam

For Respondent : Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

ORDER

When the matter is taken up for hearing, it is represented by the learned Government Advocate appearing for the respondent that Writ Appeal is preferred against the order of the learned Single Judge and the same is pending.

2. When Judgment is passed by the Division Bench in the pending Writ Appeal, the order of the learned Single Judge will get merged with the said order in Writ Appeal and the aggrieved party has to prefer contempt petition only before the Division Bench. Further this Contempt Petition will not lie against the order passed in W.P.No.16100 of 2015. It is also represented by the learned Government Advocate that the respondent has forwarded letters dated 17.09.2018 to the Government Pleader office, stating the final withdrawal from GPF amount was already drawn by the petitioner and bills were settled on 14.09.2018 and 17.09.2018 in Sub Treasury, Poonamallee.

3. In the case of **Kunhayammed vs. State of Kerala**, reported in **(2000 (6) SCC 359)**, the principle of Doctrine of 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 orders to be passed in the pending 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)

nvsri

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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Smi/10/09/2019

To

Assistant Director of Survey
and Land Records, Tiruvallur
Tiruvallur District

सत्यमेव जयते

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