IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.01.2019**

CORAM

THE HONOURABLE Mr. JUSTICE **R. SURESH KUMAR**

Contempt Petition No.1885 of 2017
and
Sub Application Nos.735 and 736 of 2018

K.Iqual Mohammed
...Petitioner

Vs

1. Mr.H.Basavaraju
   The Addl. Principal Chief Conservator of Forests
   (Forest Administration)
   Office of the Principal Chief Conservator of Forest,
   Saidapet,
   Chennai - 600 015.

2. Mr.Nasimuddin
   Secretary to Government
   Forest Department,
   Secretariat,
   Fort St. George,
   Chennai - 600 009.

...Respondents

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, seeking to punish the respondents herein for committing contempt of the order, dated 08.11.2016 made in W.P.No.30732 of 2006.

For Petitioner : Mr.K.Rajasekaran
For Respondents : Mr.Aravind Pandian,
Additional Advocate General
Assisted by
Mr.S.V.Vijayaprashanth,
AGP (Forest)

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ORDER

This Contempt Petition has been filed for the alleged disobedience of the orders of this Court made in W.P.No.30732 of 2006, dated 08.11.2016.

2. Since the said order has not been complied with, when the contempt petition was filed and during the hearing in earlier occasion, it was submitted that, as against the said order, writ appeal in W.A.No.901 of 2018 was filed by the respondents.

3. However subsequently it was brought to the notice of this Court that, on 13.08.2018, the said Writ Appeal was dismissed. Therefore when the case came up for hearing on 29.11.2018, since no one was appearing for the respondents, for giving a last chance for the respondents, the contempt petition was directed to be listed on 03.12.2018 under the caption "For appropriate orders".

4. However when the case came up for hearing on 03.12.2018, there had been no progress on the side of the respondents, with regard to the compliance of the orders of this Court. Therefore this Court issued statutory notice to the respondents to appear before this Court. That is how

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this contempt petition is for hearing before this Court today.

5. The learned Additional Advocate General appearing for the respondents would submit that, in so far as R1 in this contempt petition is concerned, though an application in Sub.A.No.736 of 2018 had been filed, he appeared before this Court today. He would further submit that, the orders of this Court, dated 08.11.2016, though had been appealed and appeal was dismissed on 13.08.2018, the copy of the said order was received by the officer concerned only on 11.10.2018. Thereafter, after getting the legal opinion with regard to the scope of filing further appeal, as the same has been negated by the Law Officer concerned, the officials had taken necessary steps to comply with the orders of this Court and accordingly, an order has been passed on 29.11.2018 to comply with the orders, i.e., refunding of a sum of Rs.48,605/- to the petitioner herein.

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6. Thereafter on 30.11.2018, the said amount by way of cheque had been paid to the petitioner, who on receipt of the same had issued acknowledgment to that effect and in this regard, the learned Additional Advocate General would submit that, even though orders has been complied with atleast before the statutory notice was issued on 03.12.2018, the same was not brought to the notice of this

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Court and he would further submit that, had this factor been brought to the notice of this Court during the earlier hearing, this Court might not have issued a statutory notice for the personal appearance of the respondents herein.

7. I have heard Mr.K.Rajasekaran, learned counsel appearing for the petitioner also, who would submit that, though belatedly, orders has been complied with and in this regard the cheque issued by the respondents have been received by the petitioner on 10.12.2018 and acknowledgement had also been given to that effect.

8. The learned Additional Advocate General also submits that, in so far as the second respondent is concerned, though contempt notice has been issued against him, since the said officer is not the authority to comply with the orders passed by this Court in the writ petition referred to above and due to unavoidable circumstances, he could not be able to present before this Court, hence, Sub.A.No.735 of 2018 has been filed seeking to dispense with his personal appearance before this Court today.

9. I have considered the said submissions made by the learned Additional Advocate General appearing for the respondents as well as the learned counsel appearing for the petitioner and I have perused the materials placed before

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this Court and noted the personal appearance made by the first respondent herein.

10. Though belatedly, the orders of this Court has been complied with in toto and this has been duly acknowledged by the learned counsel appearing for the petitioner. The submission made by the learned Additional Advocate General that, due to some communication gap, compliance of the order has not been placed before this Court during the last hearing date, which triggered this Court to issue statutory notice is taken into consideration.

11. However since the order has been fully complied with and pursuant to the notice issued, the first respondent, though has retired from the service, since his name has been shown as first respondent, is present before this Court, his presence is noted. In so far as the second respondent is concerned, the reasons stated in the affidavit filed seeking to dispense with his personal appearance is accepted and accordingly, the said sub application is allowed.

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In view of the said compliance, the contempt petition requires no further orders from this Court and hence, the same can be closed. Accordingly, this Contempt Petition is closed. Consequently, connected sub-applications are allowed as indicated above.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

tsvn

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

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