

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2020

**CORAM:
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN**

Contempt Petition Nos.163 & 164 of 2020

Cont.P.No.163 of 2020:

K.Obaiah

... Petitioner

VS.

S.Senthilkumaran,
Thiruverkadu Municipality,
Commissioner,
Thiruverkadu – 600 077.

... Respondent

Contempt Petition No.163 of 2020 filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in **W.P.No.3870 of 2014, dated 12.06.2019.**

Cont.P.No.164 of 2020:-

M.Malakondaiyah

... Petitioner

VS.

S.Senthilkumaran,
Thiruverkadu Municipality,
Commissioner,
Thiruverkadu – 600 077.

... Respondent

Contempt Petition No.164 of 2020 filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in **W.P.No.3871 of 2014, dated 12.06.2019.**

For Petitioner : Ms.G.Chamki Raj
in both Contempt Petitions

For Respondents : Mr.R.Mohandoss
in both Contempt Petitions

COMMON ORDER

These Contempt Petitions are filed alleging willful disobedience of the orders dated **12.06.2019** passed by this Court in **W.P.No.3870 of 2014 and W.P.No.3871 of 2014**, respectively.

2. When the matter is taken up for hearing today, it is represented by the learned counsel appearing for the Respondents that, challenging the orders under contempt, Writ Appeals were filed in **W.A.Nos.642 and 643 of 2020** and an order of interim stay was granted on **21.08.2020**.

3. In view of the submissions of the learned counsel appearing for the Respondents, Contempt will not lie against the orders passed in the Writ Petitions.

4. 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 by the Apex Court. With reference to the three-Judge ruling in

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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.

5. Thus, in view of the principle of Doctrine of Merger discussed above, **the present Contempt Petitions cannot be adjudicated and hence, they are closed.** However, if the Petitioners are aggrieved, it is open to them to work out their remedy after the disposal of the Writ Appeals.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

aeb/jas

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/06/11/2020

To
The Commissioner,
Thiruverkadu Municipality,
Thiruverkadu – 600 077.

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