

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.1639 of 2015

1. J.Kasithangam
2. J.Adhimoolam

... Petitioners

VS.

1. Dr.M.Saikumar
Chairman,
Tamil Electricity Generation &
Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai 600 002.
2. Manivannan,
Chief Engineer (Personnel)
Tamil Electricity Generation &
Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai 600 002.
3. Natarajan,
Superintending Engineer,
Tamilnadu Electricity Generation &
Distribution Corporation Ltd.,
Dharmapuri Electricity Distribution Circle,
Dharmapuri.

... Respondents

Contempt Petition 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.23101 of 2012, dated 09.09.2014.**

For Petitioners : Mr.N.Suresh

For Respondents : Mr.Haroon,
for M/s.T.S.Gopalan & Co.

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **09.09.2014** passed by this Court in **W.P.No.23101 of 2012.**

2. When the matter is taken up for hearing today, it is represented by the learned counsel for the Petitioners that, the order under contempt was challenged in **W.A.No.2062 of 2019** and the same was decided by a Division Bench of this Court vide judgment dated **18.07.2019.**

3. In view of the submissions of the learned counsel for the Petitioners, Contempt will not lie against the order passed in the Writ Petition.

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 **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 Petition cannot be adjudicated and hence, it is closed.** However, if the Petitioners are aggrieved, it is open to them to work out their remedy in the manner known to law.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

aeb/jas

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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

SMI/02/11/2020

To

1. The Chairman,
Tamil Electricity Generation &
Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai 600 002.

2. The Chief Engineer (Personnel)
Tamil Electricity Generation &
Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai 600 002.
3. The Superintending Engineer,
Tamilnadu Electricity Generation &
Distribution Corporation Ltd.,
Dharmapuri Electricity Distribution Circle,
Dharmapuri.