

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2020

CORAM:
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.2050 of 2013

1. R.Murugaiah
 2. S.P.Muthupandi
- ... Petitioners

vs.

1. Mohan Vargeesh Sungath,
Secretary,
Forest Department,
Fort St. George,
Chennai.
 2. Gautham Day,
Principal Chief Conservator of Forests,
Panagal Buildings,
Saidapet, Chennai.
 3. Shaik Olivava,
Range Officer,
Social Forestry Range,
Forest Department,
Pulliyangudi,
Tirunelveli Division.
- ... 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.265 of 2009, dated 05.03.2013.**

For Petitioners : Mr.V.Subramani,
for Mr.K.Vasudevan

For Respondents : Mr.M.Elumalai,
Additional Government Pleader

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **05.03.2013** passed by this Court in **W.P.No.265 of 2009**.

2. When the matter is taken up for hearing today, it is represented by the learned counsel for the Petitioners that, challenging the order under contempt, **Writ Appeal No.1977 of 2013** has been filed and a Division Bench of this Court vide judgment dated **22.08.2019**, has partly allowed the same.

3. In view of the submissions of the learned counsel for the Petitioners that, Writ Appeal has been filed challenging the order passed in the Writ Petition, 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, it is open to the Petitioners 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.)

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SMI/29.10.2020

To

1. The Secretary,
Forest Department,
Fort St. George,
Chennai.

2. The Principal Chief Conservator of Forests,
Panagal Buildings,
Saidapet, Chennai.
3. The Range Officer,
Social Forestry Range,
Forest Department,
Pulliyangudi,
Tirunelveli Division.



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