

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.596 of 2013

M.Appukan

... Petitioner

vs.

1. P.T.Mohan,
Regional Deputy Director of Sericulture,
Vellore – 9.
2. V.Prabhakaran, I.P.S.,
Chief Conservator of Forests-cum-
Director of Sericulture,
Salem.
3. G.Santhanam, I.A.S,
Government of Tamilnadu,
Secretary to Government,
Handlooms, Handicrafts, Textiles and
Khadi Department,
Secretariat,
Chennai 600 009.

... Respondents

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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.22889 of 2011, dated 18.07.2012.**

For Petitioner : Mr.Sedhu Madhavan
for Mr.M.Ravi

For Respondents 1 & 2 : Mr.S.Prabhu,
Addl. Government Pleader

For 3rd Respondent : Mr.M.Elumalai,
Addl. Government Pleader

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **18.07.2012** passed by this Court in **W.P.No.22889 of 2011**.

2. When the matter is taken up for hearing today, it is represented by the learned Additional Government Pleader appearing for the Respondents that, the order under contempt was challenged in **W.A.No.1398 of 2013** and the same was allowed in favour of the Government by a Division Bench of this Court vide common judgment dated **08.07.2015** and thereafter, the matter went up to Supreme Court in **Civil Appeal Nos.9533 to 9537 of 2019**.

3. In view of the submissions of the learned Additional Government Pleader appearing for the Respondents, 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. 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 Petitioner to work out his 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

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To

1. The Regional Deputy Director of Sericulture,
Vellore – 9.
2. The Chief Conservator of Forests-cum-
Director of Sericulture,
Salem.
3. The Government of Tamilnadu,
Secretary to Government,
Handlooms, Handicrafts, Textiles and
Khadi Department,
Secretariat,
Chennai 600 009.



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