

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2020

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

Contempt Petition No.691 of 2013

T.Kuppusamy

... Petitioner

VS.

1. U.C.Sundara Vadivel
Special Officer,
Tambaram Co-operative Urban Bank Ltd,
No.14, Venkatesan Street,
Tambaram (West),
Chennai – 600 045.

2. A.G.Chandrasekaran,
Joint Registrar of Co-operative Societies,
Kanchipuram Region,
No.7, Vanavil Nagar,
Opp.Collector Office,
Kanchipuram – 1.

... 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.6976 of 2006, dated 23.12.2012.

For Petitioner : Mr.R.Mubarak Basha

For 1st Respondent : Mrs.T.P.Savitha

For 2nd Respondent : Mr.L.P.Shanmugasundaram,
Special Government Pleader

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **23.12.2012** passed by this Court in **W.P.No.6976 of 2006**.

2. When the matter is taken up for hearing today, it is represented by the learned counsel appearing for the 1st Respondent that, the entire amount was paid to the Petitioner and Subsistence Allowance to the tune of Rs.39,227/- alone was paid to the Petitioner in the year 2014, after filing of the Contempt Petition.

3. Learned counsel for the Petitioner submitted that, challenging the order under contempt, two Writ Appeals have been filed and the same are pending.

4. In view of the fact that, Writ Appeals are filed challenging the order passed in the Writ Petition, Contempt will not lie against the order passed in **the Writ Petition**.

5. 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.

6. 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.)

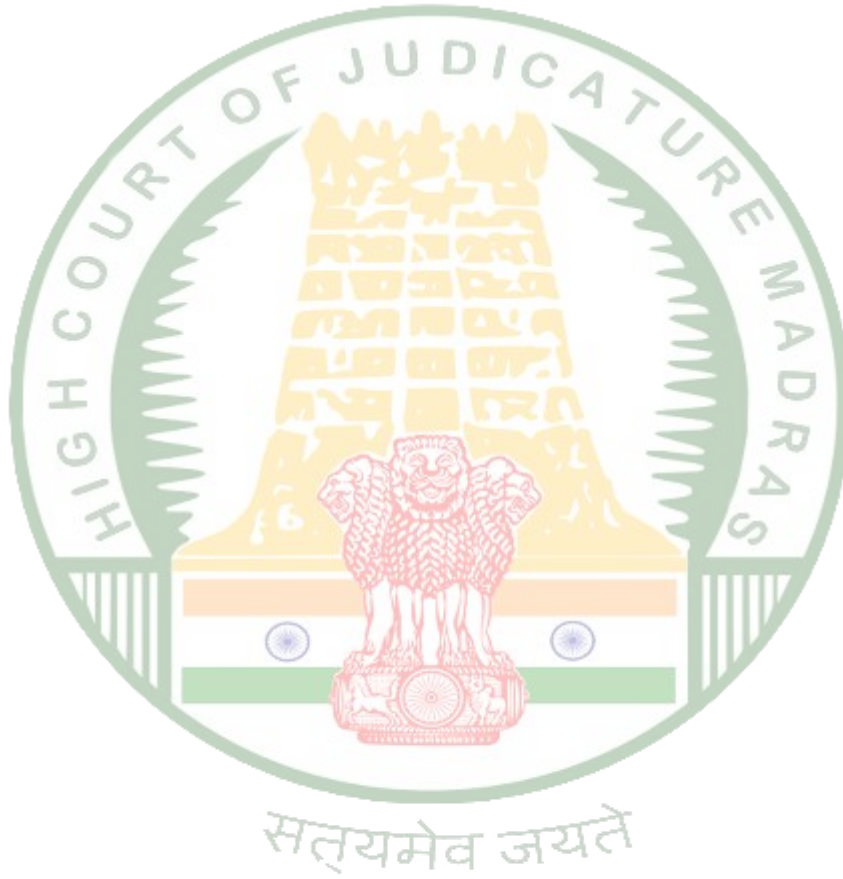
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SMI/29.10.2020

To

1. The Special Officer,
Tambaram Co-operative Urban Bank Ltd,
No.14, Venkatesan Street,
Tambaram (West),
Chennai – 600 045.

2. The Joint Registrar of Co-operative Societies,
Kanchipuram Region,
No.7, Vanavil Nagar,
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Kanchipuram – 1.



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