

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2020

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

Contempt Petition No.726 of 2013

and

Sub Appln. No.630 of 2013

- T.Thangaraj ... Petitioner in Contempt Petition/
1st Respondent in Sub Application
- vs.
1. Sandeep Saxena, I.A.S,
Secretary to Government and
Agricultural Production Commissioner,
Government of Tamilnadu,
Agriculture Department,
Fort St. George, Chennai – 600 009.
... 1st Respondent in Contempt
Petition/Petitioner in Sub Application
 2. Shiv Das Meena, I.A.S,
Commissioner of Agriculture,
Chepauk, Chennai – 600 005. ... 2nd Respondent in Contempt petition/
Sub Application

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.13431 of 2007, dated 02.08.2011.

Sub Application filed U/S 151 CPC to dispense with the personal appearance of the 1st Respondent in the above Contempt Petition No.726/2013 of the filed of this court.

For Petitioner : Mr.Sellapandian,
for Mr.S.Mani

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

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **02.08.2011** passed by this Court in **W.P.No.13431 of 2007**.

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 taken upto Supreme Court. The Supreme Court, while ordering notice in **Special Leave Petition (C) No.32538 of 2013**, stayed the contempt proceedings. Thereafter, the Special Leave Petition was entertained and leave was granted on **13.10.2014**.

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 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 and in view of the subsequent development, **the present Contempt Petition cannot be adjudicated and it is closed.** However, if the Petitioner is aggrieved, it is open to him to agitate the same after the disposal of the Special Leave Petition before the Supreme Court. Consequently, connected Sub Application is closed.

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 Secretary to Government and
Agricultural Production Commissioner,
Government of Tamilnadu,
Agriculture Department,
Fort St. George, Chennai – 600 009.
2. The Commissioner of Agriculture,
Chepauk, Chennai – 600 005.



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