

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

CORAM:
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.21 of 2001

Hilda Anbiah

... Petitioner

vs.

Noyes Matriculation Hr. Sec. School,
rep. by its Correspondent and the Bishop Manager,
Madurai – Ramnad Diocese (CSI),
162, East Veli Street,
Madurai – 625 001.

... Respondent

Contempt Petition filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondent for the deliberate and wilful disobedience of the order dated **09.05.2000** passed by this Court in **W.P.No.3373 of 1993**.

For Petitioner : Mr.K.Chakrapani

For Respondent : Mr.V.Prakash,
Senior Counsel
for Mr.Adrian D. Rozario

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **09.05.2000** made in **W.P.No.3373 of 1993**.

2. Today, when the matter is taken up for hearing, it is represented by the learned Senior Counsel appearing for the Respondent-School that, the

amount due has already been paid to the Petitioner and the order under contempt has been complied with.

3. On the other hand, learned counsel for the Petitioner submitted that, the order under contempt has not been complied with in entirety and that, the order passed by the learned Single Judge has been confirmed by a Division Bench of this Court and also by the Apex Court. He contended that non-compliance of the order of the learned Single Judge in entirety, amounts to willful and deliberate disobedience of the order of this Court and that, the Respondent-School is liable to be punished for the same.

4. This Court cannot go into the calculation aspect as regards payment of the amount due to the Petitioner by the Respondent-School. As the order of the learned Single Judge has been confirmed by a Division Bench of this Court and thereafter, as the same has been taken upto Supreme Court, this Court cannot deal with the present Contempt Petition.

5. At this juncture, it is worth referring to an Apex Court decision in the case of **Kunhayammed vs. State of Kerala**, reported in (2000 (6) SCC 359), wherein, 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.

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.** If the Petitioner has any grievance, it is open to her to adjudicate the issue 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