

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

CORAM:

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Cont.P.No.1760 of 2019

Samuel Tennyson
S/o.Tennyson Arthur,
'Jehovah Shalom' No.61A/7,
Andavar Street, Avvai Nagar,
Choolaimedu,
Chennai-600 094.

... Petitioner

Vs.

Dr.R.W.Alexander Jesudasan
Principal & Secretary,
Madras Christian College (Autonomous),
Tambaram East, Chennai-600 059.

... Respondent

Prayer: Criminal Original Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for wilfully disobeying the interim Order passed by this Court dated 05.09.2019 made in C.M.P.No.19207 of 2019 in W.A.No.2962 of 2019.

For Petitioner : Mr.V.Vijaya Shankar

For Respondent : Mr.John Zachariah
for M/s.Fox Mandal & Associates

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.,)

This contempt petition has been filed inter-alia alleging that the order passed in W.A.No.2962 of 2019 in respect of interim stay has not been complied with by the respondent / contemnor.

2. The learned counsel for the petitioner submitted that though the writ petition was dismissed, the order of dismissal has been passed on the very next day without awaiting the copy of the order. Thus, notwithstanding the fact that the interim order has been obtained subsequent to the order of dismissal, the order of the learned Single Judge has been stayed.

3. The learned counsel for the contemnor submitted that there is no contempt committed by the contemnor. Consequent to the order of dismissal of the writ petition, the order of the dismissal has been passed. The mere staying of the order of the learned Single Judge, that too subsequent to the order of dismissal passed, cannot be construed as wilful disobedience of the order passed.

4. Admittedly, the petitioner has filed the writ petition challenging the order of dismissal. The law is quite settled that when an order is passed, it cannot be construed as contumacious and wilful disobedience. In the case

on hand, the petitioner's contention is that the non-compliance of the order passed was subsequent to the order of dismissal passed. Thus, we do not find any contumacious act on the part of the contemnor. However, it is well open to the petitioner to contend that the order passed resulting in the mere dismissal of the petition is contrary to law. In that process, the petitioner can always take a plea that without even waiting for the order of the learned Single Judge, the contemnor has passed the order for extraneous reasons.

5. Thus leaving all the issues open, this Contempt petition is closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

ssn/mrm

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

GS/31/03/2021