



WEB COPY

Cont.P.No.68 of 2020
and Sub.Appl.No.101 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Contempt Petition No.68 of 2020

in

Sub.Appl.No.101 of 2020

Tamil Nadu Table Tennis Association,
Rep. By its Hon'ble Secretary,
Mr.A.V.Vidyasagar,
Room No.82, Jawaharlal Nehru Stadium,
Periamet, Chennai – 600003.

...Petitioner

Vs.

1.Table Tennis Federation of India (TTFI),
Rep. By its Secretary General
Mr.M.P.Singh,
18, Janpath, New Delhi – 110001
and also at
House No.M86, GuruHar Krishna Nagar,
Paschim Vihar, New Delhi.
Email:mpsingh0008@yahoo.co.in

2.Mr.J.Selvakumar
Flat No:5, 3rd Floor,
Indus Jubilee Manor,
No:38, Tank Bunk Road,
Nungambakkam,
Chennai – 600 034.

...Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of the Court Act of 1971, to punish the first and second respondents for committing an act of deliberate and flagrant violation of orders of this Hon'ble Court



Cont.P.No.68 of 2020
and Sub.Appl.No.101 of 2020

made in O.A.No.355 of 2019 and Application No.2619 of 2019 in
C.S.No.242 of 2019 dated 02.04.2019.

For Petitioner : Mr.J.Sivanandharaj
For Respondents : Mr.Arijit Prasad, Senior Counsel
for M/s.Cibi Vishnu for R1
Mr.S.Raghunathan for R2

ORDER

This contempt petition has been filed complaining of disobedience of the interim orders granted by me in O.A.No.355 of 2019 and A.Nos.2618 & 2619 of 2019 in C.S.No.242 of 2019.

2.Mr.Arijit Prasad, learned Senior Counsel appearing for the 1st respondent raised a preliminary objection regarding the maintainability of this contempt petition before this Court. According to the learned Senior Counsel, since the Hon'ble Supreme Court had entertained the Special Leave Petitions filed against the order dated 02.04.2019 and had disposed of the same after having granted leave to file appeal, the order dated 02.04.2019 would, infact, merge with the orders of the Hon'ble Supreme Court and therefore, this contempt petition is not be maintainable before this Court.

3.In support of his submissions, the learned Senior Counsel would draw my attention to the judgment of the Hon'ble Supreme Court in

Kunhayammed and others Vs. State of Kerela and Another reported in

<https://hcservices.ecourts.gov.in/hcservices/>



(2000) 6 SCC 359 wherein, the Hon'ble Supreme Court had considered the doctrine of merger and had observed that once leave is granted, the appellate jurisdiction of the Hon'ble Supreme Court is invoked and once orders are passed in the civil appeals, either affirming or reversing the orders of the High Court, the doctrine of merger would apply. Mr.Arijit Prasad would draw my attention to Paragraph 41 of the said judgment of the Hon'ble Supreme Court, which reads as follows:-

“41. Once a special leave petition has been granted, the doors for the exercise of appellate jurisdiction of this Court have been let open. The order impugned before the Supreme Court becomes an order appealed against. Any order passed thereafter would be an appellate order and would attract the applicability of doctrine of merger. It would not make a difference whether the order is one of reversal or of modification or of dismissal affirming the order appealed against. It would also not make any difference if the order is a speaking or non-speaking one. Whenever this Court has felt inclined to apply its mind to the merits of the order put in issue before it though it may be inclined to affirm the same, it is customary with this Court to grant leave to appeal and thereafter dismiss the appeal itself (and not merely the petition for special leave) though at times the orders granting leave to appeal and dismissing the appeal are contained in the same



WEB COPY

order and at times the orders are quite brief. Nevertheless, the order shows the exercise of appellate jurisdiction and therein the merits of the order impugned having been subjected to judicial scrutiny of this Court.”

4.He would also rely upon the judgment of this Court in Contempt Petition No.570 of 2020 wherein, a similar objection regarding maintainability of the contempt petition was upheld by this Court on the ground that once the orders of the single Judge of this Court had merged with the orders of the Hon'ble Division Bench, a contempt petition will not lie before the single Judge. The Hon'ble Mr.Justice S.Vaidyanathan had also taken a similar view in Contempt Petition.No.86 of 2017. Therefore, according to Mr.Arijit Prasad, this contempt petition is not maintainable before this Court.

5.Contending contra, Mr.J.Sivanandharaj, learned counsel appearing for the contempt petitioner would submit that all that the Hon'ble Supreme Court had done in this case was to confirm the interim orders granted by this Court and leave all other questions open and therefore, even assuming there is a merger, this Court would still have the jurisdiction to entertain the contempt petition. He would also point out that in

K.K.Dineshan Vs. R.K.Singh and another reported in (2014) 16 SCC 88,



the Hon'ble Supreme Court had directed the parties to approach the High Court complaining of contempt of the orders passed by the High Court, which were affirmed by the Hon'ble Supreme Court.

6. Even in K.K.Dineshan's case, the Hon'ble Supreme Court had held that the doctrine of merger would apply. The Hon'ble Supreme Court had invoked its powers under Articles 129, 136 & 142 of the Constitution of India to direct the petitioner to approach the High Court. Such an observation would not lead to the conclusion that despite the order of this Court having merged with the order of the Hon'ble Supreme Court, a contempt petition would still lie before this Court. I therefore, sustain the preliminary objection regarding maintainability of this contempt petition. Hence, this contempt petition is rejected as not maintainable, leaving it open to the petitioner to approach the Hon'ble Supreme Court, if it is so advised.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

kkn

//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/14/07/2021