



CONT.P.(MD)No.1470 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

CONT.P.(MD)No.1470 of 2025

in

O.S.No.181 of 2010

Sabbani Mohammed Abubucker (died)

... 1st Plaintiff

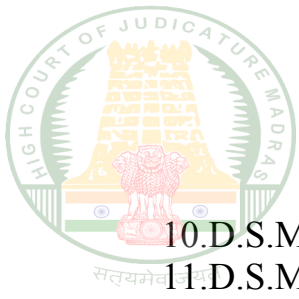
- 1.Noorjahan
- 2.Mohaideen Abdul Khader
- 3.Syed Mohamed
- 4.Kaja Kamaludin
- 5.Syed Asma
- 6.Mehraj Fatima

... Petitioners / LR's of the 1st Plaintiff

(Cause title accepted as per Court order dated 01.04.2025 in Sub.A.(MD)No.107 / 2025 in Cont.P.(MD)SR.No.96357 / 2025).

Vs.

- 1.M.Nawaskhan
- 2.M.Mujeepur Rahman
- 3.N.Mohammed Ali Jinna
- 4.Rahamath Ali
- 5.Kathija Beevi
- 6.Syed Mohammed
- 7.M.A.S.Mariyam Beevi
- 8.M.A.S.Ahammed Mideen
- 9.M.A.S.Pathimuthu



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10.D.S.M.O.Raihana

11.D.S.M.O.Jeenath

12.D.S.M.O.Kaja Uthuman

13.D.S.M.O.Mohamuthu

14.M.Pechipandiyan

... Respondents 1 to 13 /
Defendants

...14th Respondent / 3rd Party

PRAYER: Petition filed under Sections 10 & 12 of the Contempt of Court Act, to punish the contemnors for their willful disobedience of the judgment and decree dated 18.01.2013 passed in O.S.No.181 of 2010 on the file of the Principal District Munsif Court, Tirunelveli.

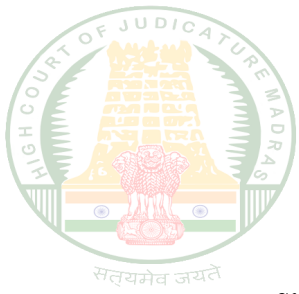
For Petitioners : Mr.H.Arumugam

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The present Contempt Petition has been instituted to punish the respondents for their willful disobedience of the judgment and decree dated 18.01.2013 passed in O.S.No.181 of 2010 on the file of the Principal District Munsif Court, Tirunelveli.

2.The question arises for consideration is whether the present Contempt Petition under Section 10 of the Contempt of Court Act, 1971 (hereinafter referred to as 'the Act') is maintainable or not. Section 10 of the Act reads as under:-



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“10. Power of High Court to punish contempts of subordinate courts.—

Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself”

3.The proviso clause to Section 10 clarifies that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a Court subordinate to it where such contempt is an offence punishable under the Indian Penal Code (45 of 1860).

4.That apart, for executing the judgment and decree of the civil Court, contempt jurisdiction need not be invoked. The execution of the judgment and decree of the civil Court is to be made in the manner contemplated under the Civil Procedure Code (CPC) and contempt proceedings are entertainable under CPC in the manner prescribed.

5.While so, the High Court need not entertain Contempt Petition under Section 10 of the Act regarding the non-implementation of the judgment and

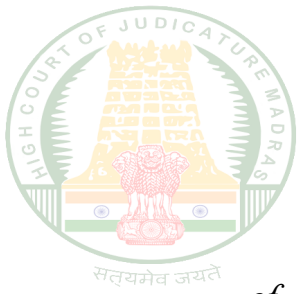


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decree passed by the civil Court in a suit. Contempt Petition under Section 10 of the Act may be invoked by the High Court only in the event of receiving a report from the concerned Presiding Officer of the Court in the district judiciary. The decree holder or any other person cannot file Contempt Petition, seeking implementation of the judgment and decree passed in a civil suit.

6.The powers conferred under Article 215 of Constitution of India need not be exercised in order to punish a person for violating the interim orders passed by the Court subordinate to the High Court. Exercise of restraint while invoking Contempt Petition is paramount importance and in the event of entertaining the Contempt Petition under Section 10 of the Act in a routine manner, it will open pandaro box and for each and every violation of the interim order or judgment and decree passed by the Subordinate Courts, the parties would be tempted to file Contempt Petition before the High Court.

7.The Division Bench of this Court in the case of ***Jayaprakash Vs. Most Rev.Dr.B.P.Sungandher*** reported in ***2006 (2) CTC 729***, made the following observations:-



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*“5. Whether a petition of this nature can be filed as a matter of course without approaching the Civil Court which passed the interlocutory order, was sought to be assailed by the counsel that even though applications are filed before the Subordinate Court under the Code to punish the alleged contemnors in case of contempt of its order, the Subordinate Courts are unwilling to proceed with the matter, stating that the same can be taken up along with the suit and therefore, the affected persons are forced to knock at the doors of the High Court. We are not inclined to subscribe to a general plea of this nature. In the instant case, there is no such pleading to that effect. On the contrary, an application as contemplated under Order 39, Rule 2-A of the Civil Procedure Code has not been filed before the Subordinate Court. It is not the case of the petitioner/applicant that the Subordinate Court has refused to entertain an application and pass appropriate orders. When such is the case, this Court should not be called upon to take up such applications as a matter of course, as has been done in this case. It is not desirable to exercise the extraordinary jurisdiction of the High Court under Sections 10 and 12 of the Contempt of Courts Act against the alleged contemnor for violation of the order of the Subordinate Court. In this regard, it will be relevant to refer to a decision of our High Court **Ramalingam v. Mahalinga Nadar**, AIR 1966 Mad.21, wherein it has been held as follows:*

“On the contrary, it would be in the interests of justice to exercise contempt jurisdiction, or to commence to



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do so, only when the facts on record ex facie support such a proceeding; any detailed enquiry must be left to the Court which has passed the order and which is presumably fully acquainted with the subject matter of its own decree of temporary prohibitory injunction. For this reason, we are of the view that the Order 39, Rule 2(3), (Rule 2-A) of the Civil Procedure Code is a far more adequate and satisfactory remedy in such cases. Again, where the situation is strictly inter parties and third party rights are not involved, it is clearly more desirable that the Court which made order of injunction, should go into the facts, and ascertain the truth of alleged disobedience and the extent to which it has been willful.”

*Further, in the case of **Perspective Publications (Pvt) Ltd., Vs. State of Maharastra** reported in **AIR 1971 SC 221**, it has been held as follows:*

“The summary jurisdiction by way of contempt must be exercised with great care and caution and only when its exercise is necessary for the proper administration of law and justice& (Per Grover, J.) Contempt of Court is essentially a matter which concerns the administration of justice and the dignity and authority of judicial tribunals. It is not a right of a party to be invoked for the redress of his grievances. It is not also a mode by which the rights of a party, adjudicated upon by a Tribunal can be enforced against another party.



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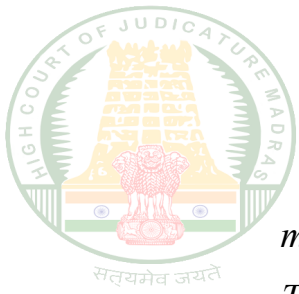


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Moreover, if the matter, as in the present case, requires a detailed enquiry, it must be left to the Court which passed the order and which presumably is fully acquainted with the subject matter of its own order. When the matter relates to mere infringement of an order, as between parties, it is clearly inexpedient to invoke and exercise contempt jurisdiction as a mode of executing the order, merely because other remedies may take time or are more circumlocutory in character. Contempt jurisdiction should be reserved for what essentially brings the administration of justice into contempt or unduly weakens it [Vide 1964 (68) Cal. WN 148; AIR 1951 Pat. 231; AIR 1966 Mad.21 and AIR 1971 All.231] ”

8.While considering the power of the civil Court in enforcing its order invoking the power under Order 39, Rule 2-A of the C.P.C., a Division Bench of this Court in the case ***PVG Industries v. M/s. Premier Industries Drives (P) Limited***, reported in **2004 (5) CTC 332**, held as follows:

“Order 39, Rule 2-A, C.P.C deals with consequence of disobedience or breach of injunction and it contemplates that “in the case of disobedience of any injunction granted or other order made under Rule 1 or Rule 2 any Court...may order the property of the person guilty of such disobedience or breach to be attached and



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may also order such person to be detained in the civil prison....”

Thus Order 39, Rule 2-A, C.P.C even contemplates the order of attachment of the property.”

9.The remedy provided under the code as aforesaid is equally effective and efficacious. Unless and until the party concerned is able to show that the remedy provided in the code will not be effective and further depending upon the nature of the injury, its seriousness and the threat it created to the enforcement of the order of the Court and the public interest of the administration of justice, which has been affected is so large that it requires the consideration of the High Court to exercise its inherent power. Petitions of this nature will not as a matter of right be entertained. The Court will be circumspect to invoke the jurisdiction, save and except in special and extraordinary circumstances. Such a reason has been endorsed by a Full Bench of this Court in the decision ***Vidya Charan Shukla v. Tamil Nadu Olympic Association, AIR 1991 Mad. 323.***

10.Therefore, this Court is of the considered opinion that Section 10 of the Act cannot be pressed into service in order to implement / execute the judgment and decree passed by the civil Court including the interim orders if any.



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In the present case, Contempt Petition has been instituted with an allegation that the judgment and decree passed by the civil Court has not been implemented.

Thus, the present Contempt Petition is not maintainable under Section 10 of the Act. Accordingly, this Contempt Petition stands dismissed.

(S.M.S., J.) & (A.D.M.C., J.)
18.06.2025

NCC : Yes / No
Index : Yes / No

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