

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 11.07.2025

PRONOUNCED ON : 26.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Cont.P.Nos. 3238, 3239 and 3380 of 2024

The South Indian Music Companies Association
3rd Floor, Vishesha Home,
47, Ramanujam Street,
T.Nagar, Chennai – 600 017.

... Petitioner/Appellant in Cont.P.Nos. 3238 & 3239 of 2024

J.Swaminathan
Secretary
The South Indian Music Companies Association
3rd Floor, Vishesha Home,
47, Ramanujam Street,
T.Nagar, Chennai – 600 017.

... Petitioner/Appellant in Cont.P.No. 3380 of 2024

Vs

Mr.Aghit Kukian,
Authorised Signatory
Music Broadcast (P) Ltd.,
Radio City No.117, Thiagaraya Road
T.Nagar, Chennai – 600017.

...Respondent/Respondent in Cont.P.No. 3238 of 2024



Mr.Prashant G.Ramdass

Authorised Signatory

Entertainment Network India Ltd.,

Raido Mirchi, Fathima Akhtar Court,

453, Anna Salai, Chennai – 600 018.

...Respondent/Respondent in Cont.P.Nos. 3239 & 3380 of 2024

PRAYER IN CONT.P.NO. 3238 of 2024: Contempt Petition filed under Section 11 of the Contempt of Court Act, 1971 to punish the respondent for disobeying the order of this Hon'ble Court dated 27.04.2023 in C.M.A.No. 3490 of 2010.

PRAYER IN CONT.P.NO. 3239 of 2024: Contempt Petition filed under Section 11 of the Contempt of Court Act, 1971 to punish the respondent for disobeying the order of this Hon'ble Court dated 27.04.2023 in C.M.A.No. 3491 of 2010.

PRAYER IN CONT.P.NO. 3380 of 2024: Contempt Petition filed under Section 11 of the Contempt of Court Act, 1971 to punish the respondent for disobeying the order of this Hon'ble Court dated 27.04.2023 in C.M.A.No. 3492 of 2010.

For Petitioner in
all Cont.Ps. : Mr. M.V.Swaroop

For Respondent in
Cont.P.No. 3238/2024 : Mr. N.L.Rajah
Senior Counsel
for M/s. Galdys Daniel



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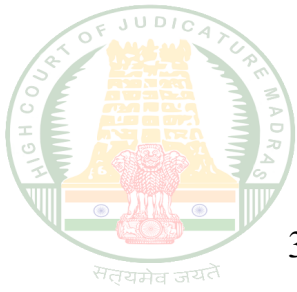
For Respondent in
Cont.P.Nos. 3239 &
3380/2024

: Mr.Masilamani
Senior Counsel
for M/s. King and Partridge

COMMON ORDER

These Contempt Petitions have been filed by the South Indian Music Companies Association (Cont.P.No. 3238 of 2024 and Cont.P.No. 3239 of 2024) and by J.Swaminthan, Secretary, the South Indian Music Companies Association (Cont.P.No. 3380 of 2024) under Section 11 of the Contempt of Courts Act 1971 seeking to punish the respondents therein for alleged disobedience of the common Judgment of this Court dated 27.04.2023 in C.M.A.No. 3490 of 2010 (Cont.P.No. 3238 of 2024) and in C.M.A.No. 3491 of 2010 (Cont.P.No. 3239 of 2024) and in C.M.A.No. 3492 of 2010 (Cont.P.No. 3380 of 2024).

2. All the three Civil Miscellaneous Appeals along with several other Civil Miscellaneous Appeals were taken up together and a common Judgment was pronounced on 27.04.2023. In all the three Contempt Petitions, similar grounds had been taken seeking to punish the respondents therein for alleged contempt of Court by disobedience of the directions in the said common Judgment.



3. Arguments on common lines were also advanced in all the three Contempt Petitions. It is obvious that the issues raised overlapped. Therefore, a common Order is passed in all the three Contempt Petitions.

4. It must also be stated that J.Swaminathan, who had filed Contempt Petition No. 3380 of 2024 had also sworn to the affidavits filed in support of Contempt Petition Nos. 3238 of 2024 and 3239 of 2024, raising similar grounds. This is also one factor for passing a common Order in all the Contempt Petitions.

5. Even before narrating the facts, it would only be appropriate to examine Section 11 of the Contempt of Courts Act 1971. Section 11 of the Contempt of Courts Act is as follows:-

“11. Power of High Court to try offences committed or offenders found outside jurisdiction.—A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits. ”



WEB COPY 6. It is to be noted that the Contempt of Courts Act was enacted by the Parliament to define and **limit** the powers of the Courts in punishing alleged contempts of courts and to regulate their procedure. The Act had not been enacted to **expand** the powers of the Courts in punishing alleged contempts of Courts.

7. It is also to be noted that this jurisdiction to punish for contempt creeps into the fundamental right of a citizen to personal liberty and freedom of expression. The Courts must also examine whether there has been just disobedience of the order or whether there was a deliberate intent to disobey the order.

8. Civil Contempt had been defined under Section 2(b) of the Act as follows:-

“2.(b) “civil contempt” means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court; ”

9. The central word in the above definition is “ **Wilful**”



disobedience to any Judgment or “**Wilful**” breach of an undertaking given

to the Court”. It therefore become expedient on the part of this Court to

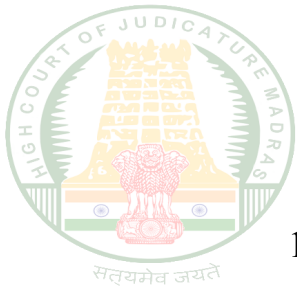
examine whether the conduct of the respondents herein as alleged by the

petitioners tantamounts to “**wilful disobedience**” of any of the directions

in the common Judgment dated 27.04.2023 in the aforementioned Civil

Miscellaneous Appeals.

10. In the affidavits filed in support of the three petitions, which affidavits are practically similar, the petitioner had stated that the respondents in each one of the three Contempt Petitions had entered into license agreements with the members of the petitioner Association whereby the respondents had obtained a non – exclusive license to broadcast the repertoire of sound recordings as set out in the schedules to the said agreements. It had been contended that by the said agreement, the parties had agreed that royalty should be paid on needle per hour rate. However, the Copy Right Board which was exercising the jurisdiction under the Copy Right Act 1957 prior to its amendment, had passed an order dated 25.08.2010 holding that the royalties were to be paid on the net advertisement revenue earned by the radio stations.



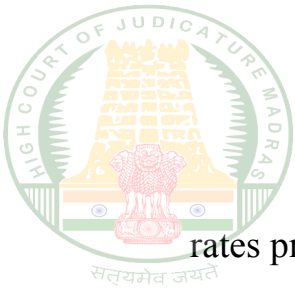
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11. It is to be noted and pointed out that the three petitioners herein were not parties to the proceedings before the Copy Right Board. But however, their grievance was that the Copy Right Board made its order applicable to the members of the petitioner Association also.

12. This necessitated the petitioners to file the aforementioned Civil Miscellaneous Appeals before this Court. By a common Judgment dated 27.04.2023, the Appeals were allowed and it was held that the order dated 25.08.2010 would not bind the contempt petitioners or its members.

13. The respondents have challenged that common Judgment dated 27.04.2023 before the Hon'ble Supreme Court. An order had been passed on 15.05.2023 stating that any payment made by the appellants therein/respondents in the Contempt Petitions shall abide by the final result of the Special Leave Petitions.

14. It had therefore been contended by the petitioners that stay had not been granted on that portion of the common Judgment dated 27.04.2023. It has thus been contended that the respondents should make payments of royalties to the members of the petitioner association on the



rates prescribed in the respective individual agreements.

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15. It had been further stated that the individual members of the petitioner Association had addressed the respondents in writing seeking the log sheet / play list for the period between August 2010 and May 2020 to ascertain the dues payable by the respondents.

16. It had been asserted that in the common Judgment in the Appeals, this Court had clearly declared that the directions issued were applicable to all the members of the petitioner Association.

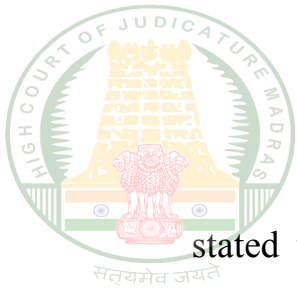
17. The petitioners then issued a contempt notice on 27.03.2024 calling upon the respondents to furnish a log of the music played by all radio stations run by the respondents for the period from August 2010 to December 2020 and to calculate the royalty payable at needle per hour rate as stipulated in the individual agreements and furnish such calculation and pay the individual members, the sums as calculated above in compliance with the directions of this Court in the common Judgment dated 27.04.2023 in the aforementioned Civil Miscellaneous Appeals and pay costs of Rs.1,00,000/- for the contempt notice.



WEB COPY 18. It had been sated that the respondents did not comply with the terms of the Judgment nor replied to the notices issued by the petitioners. It was under those circumstances that the Contempt Petitions have been filed.

19. Notices had been directed to the respondents and counsels had also entered appearance.

20. A reply had been filed wherein it had been stated that the common Judgment of this Court dated 27.04.2023 shall apply only to a person, who was a party to the Copy Right Board dated 25.08.2010, and that it was the stand of the petitioners that the order of the Copy Right Board does not apply to them as they were not parties to the said proceedings. It had been further stated that the Copy Right Board had finally decided the rights of the parties. It had been further stated that the Copy Right License Agreements had been entered into between the copy right owner and the respondent and not with the petitioner Association. It had been further stated that the petitioner is not a registered Copy Right Society under the provisions of the Copy Right Act. It had been further



stated that the members of the petitioner Association had agreed to be

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bound by the order of the Copy Right Board. It had been further stated that in accordance with the order of the Copy Right Board, the respondents had paid license fees to the Copy Right owners, which they had accepted. It had been stated that the modified order in the Civil Miscellaneous Appeals would be applicable only to the parties to the Copy Right Board and not to the petitioner or to its members. It was therefore stated that the Contempt Petitions were not maintainable.

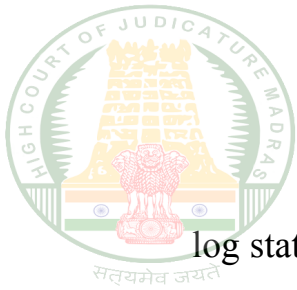
21. It had also been stated that the Appeals had been filed before the Supreme Court against the Common Judgment and the same are pending. It had been stated that there was no enforceable order or decree in favour of the petitioners in the Common Judgment dated 27.04.2023. It had therefore been stated that the Contempt Petitions will have to be dismissed.

22. Heard arguments advanced by Mr.M.V.Swaroop, learned counsel for the contempt petitioners in all the three Petitions and by Mr.G.Masailamani, learned Senior Counsel for the respondents in Cont.P.No. 3239 and 3380 of 2024 and Mr.N.L.Rajah, learned Senior Counsel for the Contempt Petition No. 3238 of 2024.



WEB COPY 23. Mr.M.V.Swaroop, learned counsel for the contempt petitioners took the Court through the facts of the case and contended that the respondents have deliberately disobeyed the directions given by this Court in the common Judgment dated 27.04.2023. The learned counsel pointed out that an Appeal had been filed before the Supreme Court but stay had not been granted. The members of the petitioner Association had individual agreements with the respondents and initially they were paid royalties at needle per hour rate but later, the Copy Right Board had modified the same to net advertisement rate. The petitioner Association was however not a party before the Copy Right Board, but still the Copy Right Board had made its order applicable even to the petitioner Association.

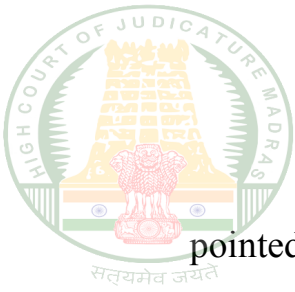
24. It had been contended by the learned counsel that therefore the petitioner Association had filed Civil Miscellaneous Appeals before this Court and this Court had very specifically stated that the order of the Copy Right Board would not be applicable till the petitioners. The learned counsel stated that therefore, in accordance with the said finding, the members of the petitioner Association had been demanding furnishing of



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log statements for the music played in the radio stations of the respondents but the respondents have not complied with the demand. It had been contended by the learned counsel that this denial and the refusal to comply with the directions of this Court were deliberate and therefore, the learned counsel insisted that the respondents were guilty of contempt and accordingly, urged that this Court should pass appropriate orders punishing the respondents for committing contempt of Court.

25. Mr.G.Masilamani, learned Senior Counsel for the respondents in Contempt Petition Nos. 3239 and 3380 of 2024 however seriously disputed the said contentions. The learned Senior Counsel stated that this Court in the common Judgment had directed that all parties in the Appeal should apply for enforcement of the Judgment within a period of four weeks. The learned Senior Counsel stated that the avenue open to the petitioners was only to file an execution petition and not a contempt petition. The learned Senior Counsel stated that the contempt petitions are not maintainable. The learned Senior Counsel stated that a right alone had been declared by the common Judgment but there has been no quantification of the amount which the respondent should pay to the members of the petitioner Association. The learned Senior Counsel



pointed out Section 75 of the Copy Right Act 1957 and pointed out that

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orders for payment of money which had been passed by Registrar and by the Copy Right Board are executable as a decree. The learned Senior Counsel stated that when the law provides a particular procedure to be followed, that procedure alone should be followed and therefore the contempt petitions would not lie. The learned Senior Counsel therefore contended that the Contempt Petitions should be dismissed.

26. Mr.N.L.Rajah, learned Senior Counsel for the respondents in Contempt Petition No. 3238 of 2024 contended that the petitioner Association is not a registered society. He pointed out Section 33 of the Copy Right Act 1957 which provides for the registration of a Copy Right Society. The locus of the petitioner to maintain the Contempt Petitions itself is questionable. The learned Senior Counsel argued that notices had been issued and replies had also been issued clarifying the issues raised. The learned Senior Counsel very specifically questioned the authority of the petitioner Association to act on behalf of individual members. The respondent did not have any agreement with the petitioner Association. The learned Senior Counsel also contended that the Contempt Petitions should be dismissed.



WEB COPY 27. Mr.M.V.Swaroop, learned counsel placed strong reliance on the Judgment of the Hon'ble Supreme Court in ***Contempt Petition (C) Nos. 158-159 of 2024 in Civil Appeal Nos. 5542-5543 of 2023, [CEIR LLP Vs. Mr. Sumati Prasad Bafna and Ors.]***. The learned counsel placed very specific reliance on the observations of the Hon'ble Supreme Court on and from paragraph No. 193.

28. The facts in that particular case was that the original borrower had availed credit facility from the Bank. A simple mortgage had been created over a parcel of land measuring 16200 sq. metres at Navi Mumbai. The borrower defaulted in repayment of the loan. The loan was declared as a non performing asset. The bank issued demand notice under Section 13(2) of the SARFAESI Act for repayment of principal along with interest and costs. Thereafter, the bank proceeded to take possession of the asset under the provisions of the Act. A possession notice was issued under Section 13(4) of the SARFAESI Act and symbolic possession was also taken.

29. The borrower then filed an appeal under Section 17 of the Act



before the Debt Recovery Tribunal assailing the notice under Section

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13(2) and under Section 13(4) of the Act. The Bank then had taken a

decision to put the property to auction and issued a notice of sale by

public auction. However, the attempts to bring the property of auction

failed since there were no bids. The borrower then tried to bring the

property on sale and informed that they would be able to obtain a sum of

Rs.91-92 crores and that they would settle the entire outstanding with the

bank. The bank however decided to go for one more auction and issued a

notice on sale. The reserve price was also determined and the terms and

conditions were also stipulated.

30. The borrower then filed the application before the Debt Recovery Tribunal seeking to amend the pleadings and to also challenge the auction proceedings. The auction proceedings however was conducted and the petitioner before the Hon'ble Supreme Court had submitted a bid of Rs.105.05 crore. The petitioner was declared as the highest bidder and a sale confirmation letter was issued. The petitioner also deposited the amounts as required.

31. The borrower then filed an Interlocutory Application seeking to



redeem the mortgage by paying a total amount of Rs.123.83 crores.

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Though the Debt Recovery Tribunal heard both the Bank and the borrower, no consequential order was passed. The petitioner who was the successful bidder deposited the balance sum of the total bid which had been accepted by the bank. The Debt Recovery Tribunal then reserved orders on the application to redeem the mortgage. Before the order could be passed, the borrower went to the High Court and filed a Writ Petition challenging the measures taken by the Bank. The borrower was under the impression that the Debt Recovery Tribunal might reject their application seeking redemption. The borrower however did not challenge the legality of the auction in the Writ Petition.

32. Before the High Court, the borrower expressed willingness to pay a total sum of Rs.129 crores to redeem the mortgage. This proposal was accepted by the Bank. The petitioner then filed an application to get impleaded in the Writ Petition. By order dated 17.08.2023, the High Court allowed the Writ Petition and permitted the borrower to redeem the mortgage. The petitioner then filed Special Leave Petitions before the Hon'ble Supreme Court challenging the final order passed by the High Court.



WEB COPY 33. In the meanwhile, the borrower had paid the total amount to redeem the mortgage and the bank also issued a no due certificate. There was however a second charge over the property which also was released pursuant to the payment of the borrower. The borrower then entered into an agreement of assignment of lease hold rights with a third party which agreement was also registered.

34. The matter then came up before the Supreme Court and was reserved for Judgment. In the final Judgment dated 21.09.2023, the appeals filed by the petitioner / successful auction bidder were allowed and it was held that the High Court had erred in permitting the borrower to redeem the mortgage.

35. The borrower then filed a Review of the said order. The petitioner in the meanwhile as the successful auction purchaser had issued several letters seeking physical possession of the property.

36. The Contempt Petitions were then filed seeking handing over of physical possession and the original title deeds and annulment of the



release deed and the no due certificate and the deed of assignment and to

quash all proceedings pending before the Debt Recovery Tribunal and

DRAT and in the Civil Court. It was under those circumstances that

orders came to be passed in the Contempt Petitions. While passing orders,

the Hon'ble Supreme Court had held as follows:-

“193. The Borrower and the Subsequent Transferee/the alleged contemnors herein placing reliance on the decision of this Court in Patel Rajnikant reported in (2008) 14 SCC 561 have contended that in the absence of any disobedience or wilful breach of a prohibitory order no contempt could be said to have been committed. It has been further canvassed that this Court in the Main Appeals never issued any specific direction either to the Borrower or the Subsequent Transferee, & therefore no contempt could be said to have been committed.

194. In Patel Rajnikant (supra) this Court upon examining Section 2(b) of the Act, 1971 held that to hold a person guilty of having committed contempt, there must be a judgment, order, direction etc. by a court, there must be disobedience of such judgment, order, direction etc and that such disobedience must be wilful. The relevant provisions read as under:—



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“58. The provisions of the Contempt of Courts Act, 1971 have also been invoked. Section 2 of the Act is a definition clause. Clause (a) enacts that contempt of court means “civil contempt or criminal contempt”. Clause (b) defines “civil contempt” thus:

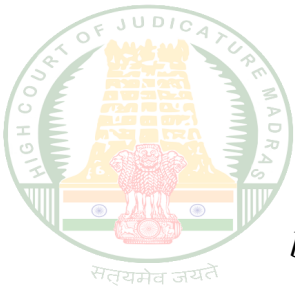
“2. (b) ‘civil contempt’ means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;”

Reading of the above clause makes it clear that the following conditions must be satisfied before a person can be held to have committed a civil contempt:

(i) there must be a judgment, decree, direction, order, writ or other process of a court (or an undertaking given to a court);

(ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court (or breach of undertaking given to a court); and

(iii) such disobedience of judgment, decree, direction, order, writ or other process of a court (or



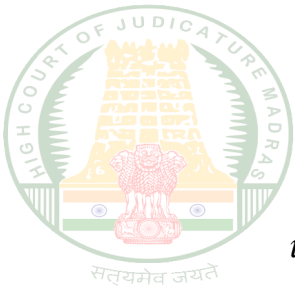
breach of undertaking) must be wilful.”

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195. However, the subsequent observations made by this Court in Patel Rajnikant (supra) are significant. It observed that the court should not hesitate in wielding the potent weapon of contempt, it is for the proper administration of justice and to ensure due compliance with the orders passed by it in order to uphold and maintain the dignity of courts and majesty of law. The relevant observations read as under:—

“70. From the above decisions, it is clear that punishing a person for contempt of court is indeed a drastic step and normally such action should not be taken. At the same time, however, it is not only the power but the duty of the court to uphold and maintain the dignity of courts and majesty of law which may call for such extreme step. If for proper administration of justice and to ensure due compliance with the orders passed by a court, it is required to take strict view under the Act, it should not hesitate in wielding the potent weapon of contempt.”

196. What can be discerned from the above exposition of law is that any act of disobedience, defiance, or any attempt to malign the authority of the court would amount to contempt because they

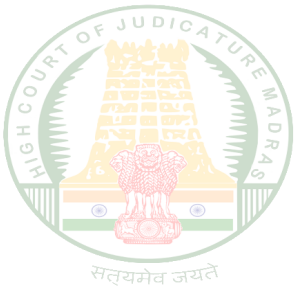


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*undermine the respect and trust that the public reposes in judicial institutions. **The judicial process relies on the confidence of society, and any act that disrupts or disrespects this process threatens to erode the foundation of justice and order.***

*197. Contempt jurisdiction exists to preserve the majesty and sanctity of the law. Courts are the guardians of justice, and their decisions must command respect and compliance to ensure the proper functioning of society. When individuals or entities challenge the authority of courts through wilful disobedience or obstructive behaviour, they undermine the rule of law and create the risk of anarchy. **Contempt serves as a mechanism to protect the integrity of the courts, ensuring that they remain a symbol of fairness, impartiality, and accountability.***

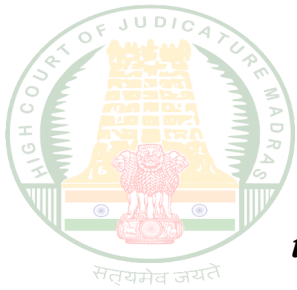
198. When judicial orders are openly flouted or court proceedings are disrespected, it sends a signal that the rule of law is ineffective, leading to a loss of trust in the system. Judicial decisions must remain unimpaired, free from external pressures, manipulation, or circumvention. Acts that attempt to mislead the court, obstruct its functioning or frustrate its decisions distort the process of justice and would amount to contempt.



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199. *The contempt jurisdiction of this court cannot be construed by any formulaic or rigid approach. Merely because there is no prohibitory order or no specific direction issued the same would not mean that the parties cannot be held guilty of contempt. The Contempt jurisdiction of the court extends beyond the mere direct disobedience of explicit orders or prohibitory directions issued by the court. Even in the absence of such specific mandates, the deliberate conduct of parties aimed at frustrating court proceedings or circumventing its eventual decision may amount to contempt. This is because such actions strike at the heart of the judicial process, undermining its authority and obstructing its ability to deliver justice effectively. The authority of courts must be respected not only in the letter of their orders but also in the broader spirit of the proceedings before them.*

200. *Any contumacious conduct of the parties to bypass or nullify the decision of the court or render it ineffective, or to frustrate the proceedings of the court, or to enure any undue advantage therefrom would amount to contempt. Attempts to sidestep the court's jurisdiction or manipulate the course of litigation through dishonest or obstructive conduct or malign or distort the decision of the courts would inevitably*



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tantamount to contempt sans any prohibitory order or direction to such effect.

201. Thus, the mere conduct of parties aimed at frustrating the court proceedings or circumventing its decisions, even without an explicit prohibitory order, constitutes contempt. Such actions interfere with the administration of justice, undermine the respect and authority of the judiciary, and threaten the rule of law.

205. ***Where a decision is rendered and the impugned order is set-aside, it behoves any logic that an express direction to act must be given in respect of every aspect of the decision. The parties are duty bound to act in accordance with common sense. It is axiomatic that a party should obey both the letter and the spirit of a court order, and it is neither open for the parties to adopt a myopic and blinkered view of such decision nor any such interpretation or view that sub-serves their own interests. It is ultimately the purpose for which the order was granted that will be the lodestar in guiding the parties as to the true effect of the order and determination of the court.***”

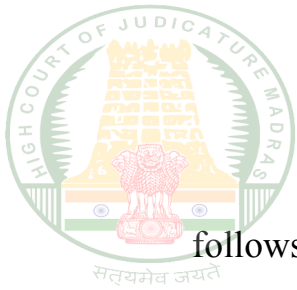
[Emphasis Supplied]



WEB COPY 37. Placing very strong reliance on the observations made, the learned counsel for the petitioner stated that the conduct of the respondent was also aimed at mis-interpreting the court's Judgment to circumvent the decision even though there was no stay was granted by the Hon'ble Supreme Court. It had been contended that the respondents were attempting to side step the jurisdiction of the Court.

38. The respondents instead of complying with the directions had taken upon themselves the power to decide the manner in which the Judgment of the Court should be dealt with. The learned counsel argued that the respondents should obey the common Judgment of this Court in letter and spirit and it was not open to them to interpret it in any other manner. It was therefore insisted that the Contempt Petitions would lie.

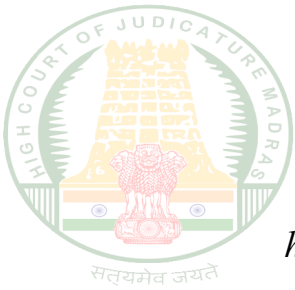
39. On the side of the respondents, reliance had been made to the Judgment of the Hon'ble Supreme Court reported in **(1996) 6 SCC 44 [Union of India and Others Vs. Dhanwanti Devi and Others]**, which was rendered with respect to acquisition of land in Jammu and Kashmir. Reliance was placed specifically to paragraph Nos. 9 and 10 which are as



follows:-

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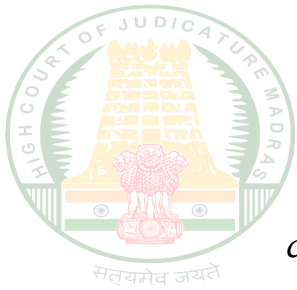
“9.It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates—(i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence



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here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein. The enunciation of the reason or principle on which a question before a court has been decided is alone binding as a precedent. The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, ascertained on a consideration of the judgment in relation to the subject-matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution. A deliberate judicial decision arrived at after hearing an argument on a question which arises in the case or is put in issue may constitute a precedent, no matter for what reason, and the precedent by long recognition may mature into rule of stare decisis. It is the rule deductible from the application of law to the facts and circumstances of the case which constitutes its ratio decidendi.

10. Therefore, in order to understand and appreciate the binding force of a decision it is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided. No judgment can be read as if it is a statute. A word or a clause or a sentence in the judgment cannot be regarded as a full exposition of law. Law

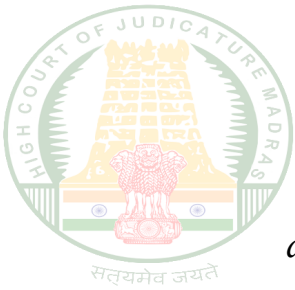


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cannot afford to be static and therefore, Judges are to employ an intelligent technique in the use of precedents....”

40. This Court had passed the common Judgment in the Civil Miscellaneous Appeals on 27.04.2023. In the common Judgment, this Court had observed and recorded the arguments on behalf of the respondents in paragraph No. 89 which is as follows:-

“89.The learned Senior Counsel also questioned the locus of SIMCA to maintain the appeals as SIMCA was also not a Copyright Society, but a Society registered under the Tamil Nadu Societies Registration Act. The learned Senior Counsel pointed that ENIL had individual agreements with the members and those members had agreed to abide by the order of the Copyright Board. Therefore, the learned Senior Counsel stated that the argument that the order of the Copyright Board would not apply to SIMCA has to be rejected by this Court, since most of the members of SIMCA had agreed to abide by the order of the Copyright Board. He pointed out that therefore, whether they had participated or not participated in the proceedings before the Copyright Board could be made an issue and this Court need not examine the said issue. The learned Senior Counsel stated that the members had taken a conscious



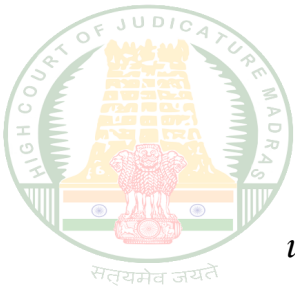
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decision not to participate in the proceedings before the Copyright Board. The proceedings were conducted in open Court in a transparent manner and everybody involved in the industry knew about the ongoing proceedings before the Copyright Board. The learned Senior Counsel therefore stated that SIMCA not being a Copyright Society, having no licence for copyright and being registered only under the Tamil Nadu Societies Registration Act, can only espouse the cause of its members but none of the members had ever complained. He therefore stated that the appeals by the SIMCA against ENIL have to be dismissed as not maintainable.”

41. The Court had also answered the said arguments in paragraph

Nos. 167 and 168:-

“167.The appellant/ SIMCA was not present before the Copyright Board. The Copyright Board could have, after passing the order and determining the rates, granted liberty to anybody else, who had not participated to seek clarifications/modifications. It is seen that the members of the appellant had independent agreements with the Radio Stations. They had agreed to abide by the order of the Copyright Board in the first instance: This agreement cannot be made to be



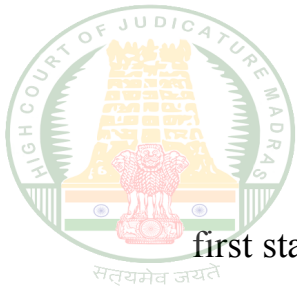
universally and ever always applicable.

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168. There can be an agreement over a definite issue or point, but there cannot be an agreement over undeclared/unpronounced judgments. Vagaries of law would take the decision maker through various paths and no party can be bound unless they also had the opportunity of presenting their views before the decision making authority. A sweeping order and a statement that the order would apply everybody else cannot withstand the scrutiny of this Court. It has to be deprecated. I would therefore hold with respect to Point No.3, that the appellants had been seriously prejudiced by the applicability of the order passed by the Copyright Board and therefore the appeals filed by SIMCA are maintainable. ”

42. A specific finding had been given that the order of the Copy Right Board is not applicable to the petitioner. The logical conclusion is that the agreement which the members of the petitioner Association had with the respondents alone would prevail.

43. It had been contended that under the Copy Right Act 1957, the



first stage is to crystallise the amount due and payable if ever it is payable.

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It has to be then adjudicated whether it is payable to the petitioner Association or to the members of the petitioner Association. This is an exercise which can be performed only by mutual participation by both the parties. The members of the petitioner Association had sought details and called upon the respondents to furnish a log of all the music played by the Radio Stations for the period from August 2010 and December 2020.

44. In response to the same, the respondents have not given that particular detail but had proceeded to give their own interpretation of the common Judgment passed by this Court. This approach has been frowned upon by the Hon'ble Supreme Court. The respondents have stated that the demand of royalty along with furnishing of log sheets / play list is baseless and completely inconsistent with the provisions of law.

45. This reply by the respondent only shows the contempt which they have for judicial proceedings, for the petitioners and for the judicial system as a whole, and probably also on the counsels/Senior Counsels who had argued the Appeals. The respondents could have simply stated whether they have the details or they do not have the details. If they have

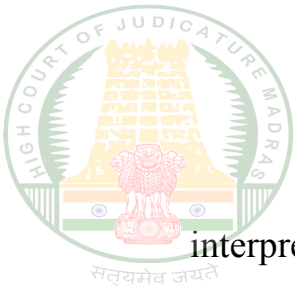


the details, they will have to furnish the details. On the basis of the

details, the petitioner or the members of the petitioner Association will be able to take any further steps as is deemed prudent. If the respondents do not have the details, then they could very well disclose that they do not have the details. But they cannot misinterpret the Judgment and give a reply expressing their interpretation about the Judgment of this Court. The respondents must realise that they are parties to the litigation and can never elevate themselves as an authority to decide the litigation.

46. As pointed out by the Hon'ble Supreme Court in ***CEIR LLT***, the Judgment referred supra by the learned counsel for the petitioners, even when specific directions had not been issued, the purport of the Judgment should be obeyed.

47. The petitioner was not a party before the Copy Right Board. The Copy Right Board however made its order applicable to the petitioner. This Court had directed that the order of the Copy Right Board would not be applicable to the petitioner. It would automatically and directly mean that the individual agreements would govern the relationship among the parties so far as the payment of royalty is concerned. There is no other



interpretation possible.

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48. The learned Senior Counsel for the respondents stated that if there had been a breach of that particular agreement then, the petitioners' remedy lies elsewhere. But that breach would occur only when the respondents disclose the log details and thereafter take a decision that they would not pay the amount in accordance with the agreement or pay under a different rate or method. Here, there is denial even to furnish basic fundamental information of the log details to the petitioners. This is Contempt of Court. It does not behove on the part of the respondent to give an interpretation of the Court's Judgment. They are bound by the Judgment of the Court and if they are of the opinion that the Judgment of the Court requires revisitation, then they should approach the Appellate forum and obtain an order of restraint of further proceedings pursuant to the Judgment of the Court.

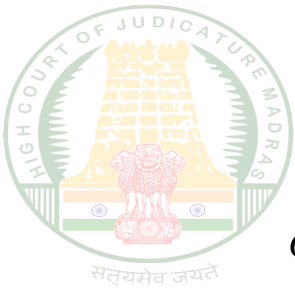
49. In the instant case, the respondents have approached the Supreme Court but had not obtained any order of stay which would effectively mean that they are bound by the Judgment of the Court.



WEB COPY 50. With respect to the contention that an Execution Petition should have been filed, I would only refer to the Judgment of the Hon'ble Supreme Court in **(2022) 6 SCC 662 [Urban Infrastructure Real Estate Fund Vs. Dharmesh S. Jain and another]**, wherein a similar contention was raised that an Execution Petition could be filed and when that avenue is open, contempt petition should not be normally referred to. However, the Hon'ble Supreme Court had held as follows in paragraph Nos. 20, 21 and in paragraph No. 25. The said paragraphs are as follows:-

“20. Further, it is trite law that the jurisdiction of a court under the Act, would not cease, merely because the order or decree of which contempt is alleged, is executable under law, even without having recourse to contempt proceedings.

21. Contempt jurisdiction could be invoked in every case where the conduct of a contemnor is such as would interfere with the due course of justice; vide Rama Narang v. Ramesh Narang [Rama Narang v. Ramesh Narang, (2006) 11 SCC 114] . Contempt is a matter which is between the Court passing the order of which contempt is alleged and the contemnor; questions as to executability of such order is a question which concerns the parties inter se. The power of the



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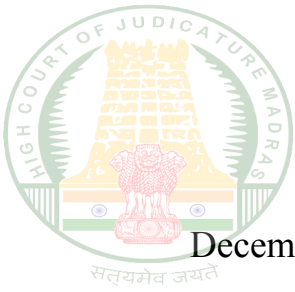
*Court to invoke contempt jurisdiction, is not, in any way, altered by the rights of the parties inter se vide **Bank of Baroda v. Sadrudin Hasan Daya [Bank of Baroda v. Sadrudin Hasan Daya, (2004) 1 SCC 360]**.*

*25. Further, the decision of this Court in **Maruti Udyog Ltd. v. Mahinder C. Mehta [Maruti Udyog Ltd. v. Mahinder C. Mehta, (2007) 13 SCC 220 : AIR 2008 SC 309]** suggests that irrespective of whether or not a decree is executable, the question to be considered by this Court in determining whether a case for contempt has been made out was, whether, the conduct of the contemnor was such as would make a fit case for awarding punishment for contempt of court.”*

[Emphasis Supplied]

51. In view of these reasons, I would issue the following directions to the respondents herein in each of the three Contempt Petitions to comply, failing which further orders would be passed:-

(i) the respondents in each of the three Contempt Petitions are directed to produce before this Court the log of all music pertaining to the petitioner Association / members of the petitioner Association played by the Radio Stations run by the respondents for the period August 2010 to



December 2020;

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(ii) calculate the royalty payable at the needle per hour rate as stipulated in the individual agreements with the members of the petitioner Association and furnish such calculation to this Court.

52. The respondents in each one of the three Contempt Petitions are directed to comply with the aforementioned directions within a period of four weeks from this date.

53. List the matter again on 26.09.2025 to report compliance.

26 .08.2025

vsg

Index: Yes/No

Internet: Yes/No

Speaking order / Non speaking order



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C.V.KARTHIKEYAN, J.

Vsg

Pre Delivery Order made in

Cont.P.Nos. 3238, 3239
and 3380 of 2024



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26.08.2025