



CONT P(MD) NO. 3594 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04-12-2025

CORAM

THE HONOURABLE MR JUSTICE G.R.SWAMINATHAN

CONT P(MD) No.3594 of 2025

Rama.Ravikumar, S/o.S.Ramar, Ward No.5,
9/36, Nehruji Street, (Santhana Mariamman Kovil Street),
Ezhumalai, Peraiyur Taluk
Madurai District.

Petitioner

Vs

1.K.J.Praveenkumar IAS,
District Collector, Madurai.

2.J.Loganathan IPS,
Commissioner of Police, Madurai City.

3.Yagna Narayanan, Executive Officer,
Arulmigu Subramania Swamy Temple,
Thirupparankundram,
Madurai.

Respondents

For Petitioner(s):

Mr.RM.Arun Swaminathan
Mr.KPS.Palanivelrajan, Senior Counsel



WEB COPY

For Respondent(s):

Mr.J.Ravindran,
Addl. Advocate General,
Assisted by Mr.S.S.Madhavan,
Addl. Government Pleader for R1

Mr.Veera.Kathiravan
Addl. Advocate General,
Assisted by Mr.S.Ravi,
Addl. Public Prosecutor Pleader for R2.

Mr.Jothi, Senior Counsel for
Mr.V.Chandrasekar for R3

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish upon the Contemnors/Respondents No.1,2 and 4 for willful disobedience of the order passed by this Honourable Court in WP(MD) No.32317 of 2025 dated 01.12.2025 according to law.

ORDER

Heard both sides.

2.The petitioner herein was one of the writ petitioners who moved this Court for directing the management of Arulmighu Subramaniya Swamy Temple, Thirupparankundram, Madurai to light Karthigai Deepam at the lower peak of the hillock (Deepathoon). The



WEB COPY

writ petitions were allowed by me on 01.12.2025. Order copy was issued immediately. The event fell Yesterday at 06.00 P.M. Contending that no arrangement has been made for lighting the Deepam and that the order of this Court was going to be breached, this contempt petition came to be filed.

3.The matter was taken up at 05.00 PM Yesterday. Shri.J.Ravindran, the Additional Advocate General submitted that the contempt petition is premature and that it deserves to be closed. Taking note of the said submission, I passed over the matter to be taken up at 06.05 PM Yesterday. The Deepam had been lit at Uchi Pillaiyar Temple at 06.00 PM. But there was no lighting of the Deepam at the Deepathoon as directed by this Court vide order dated 01.12.2025 in WP(MD)No.32317 of 2025 etc.,

4.Since it was obvious that contempt had been committed, I took cognizance of the petition. I directed issuance of statutory notice. Since the order of this Court has been breached and it appeared that the breach cannot be made good, I issued certain directions.

3/22



WEB COPY

5.The relevant portions of the order of this Court passed yesterday read as follows :

“6.I had passed the order sitting in Single Bench. So long as my order is not stayed or set aside by the Hon'ble Division Bench of this Court or by the Hon'ble Supreme Court, it has to be complied with in letter and spirit. The Executive cannot remain in hibernation. A positive direction to act has been issued. By remaining inactive, the authorities are defying the order of this Court.

7.Let me remind the respondents that the Hon'ble Supreme Court in a very recent Judgment dated **09.05.2025 in SLP(C)Nos.10056-10057 of 2025(TATA Mohan Rao Vs. S.Venkateswarlu and Others Etc.)** had observed that when a Constitutional Court or for that matter, any Court issues any direction, every person or authority regardless of rank, is duty bound to respect and comply with that order. Disobedience of the orders passed by the court attacks the very foundation of the rule of law on which the edifice of a democracy is based. His Lordship The Hon'ble Mr.Justice B.R.Gavai, the then Chief Justice of India remarked that they were confirming the conviction under the Contempt of Courts Act, 1971 only to send across the right message. It was observed by His Lordship that a clear message should be sent so that no one, howsoever high they may be, may think that they are above the law.



WEB COPY



8. There is another hard-hitting judgment of the Kerala High Court in Contempt Case (c) No.2615 of 2019 vide order dated 08.12.2020 rendered by His Lordship Mr. Justice P.B. Suresh Kumar. Several paragraphs of the judgment deserve to be quoted verbatim. The learned Judge observes that a judgment or a direction of a court is of no use if it is not enforceable. The judiciary has no machinery of its own to enforce its judgments and directions. In a country, the Constitution of which is built on the principle of rule of law, if the State does not implement the directions of the court, that will be the end of the rule of law and there would be a constitutional stalemate. The Constitution fastens on all authorities a non-negotiable obligation to enforce orders of the court and the authorities who are bound to comply with the orders have no discretion whether or not to abide by the decision of the Court, whatever be the reasons for the same. The High Court is the highest court in the State. The Constitution confers on the High Court vast powers to ensure that constitutional guarantee of justice to all is truly fulfilled. This depends on the respectful and faithful obedience of its commands by the executive. The Hon'ble Judge went to the extent of indicating that if the direction of the court is not complied with, the DIGP, Group Centre, CRPF, Pallipuram shall take over the religious institution. The Assistant Solicitor General of India was directed to communicate the order to the DIGP, Group Centre, CRPF, Pallipuram.



WEB COPY



9.The fundamental rights of the writ petitioner are involved. Rule of law is at stake. The State administration has decided to cock a snook at this Court's order. Merely admitting the contempt petition and issuing statutory notice will not serve the purpose. I had not ordered the execution of anybody. I had not ordered demolition of any building. No irreversible consequence will ensue if the order of this Court is obeyed. On the other hand, defying the order of this Court would send a very bad signal. It would encourage the officials to indulge in such conduct in future also. That would sound the death knell of democracy itself.

10.The State has not filed any appeal. The Dargha which can be said to be the aggrieved person in the legal sense of the term has not obtained stay of this Court's order. The temple management after filing the papers had taken them back. It is true that 30 days time is available for filing writ appeal. But on that ground, the conduct of the official respondents cannot be condoned. There are moments when the court has to take the call to take appropriate measures to enforce its order.

11.The majesty of the Court and the authority of law must be upheld. This can be achieved only if the offending act is effaced. Contempt jurisdiction is not only about punishment but also about restoring the status quo that obtained following



WEB COPY



the judicial order and before the offending act was committed. Halsbury's Laws of England states that the Court may invoke other remedies in lieu of punitive action. In *AG V. Times Newspapers Ltd., (1973) 3 All ER 54*, the house of Lords addressing the question as to whether the publication of Articles in respect of a pending litigation would amount to contempt; granted injunction restraining publication that may pre-judge the issue. When injunction can be granted in exercise of Contempt jurisdiction, certainly the power to set aside the offending action is also equally available.

12. Article 129 of the Constitution of India states that the Supreme Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself. Article 215 of the Constitution of India states that every High Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself. These two Articles do not confer any new jurisdiction or status on the Supreme Court and the High Courts. They merely recognise a pre-existing situation. Such inherent power to punish for contempt is summary. It is not governed or limited by any rules of procedure except for the principles of natural justice. This jurisdiction is inalienable. It cannot be taken away or whittled down by any legislative enactment subordinate to the Constitution. The provisions of Contempt of Courts Act, 1971 are in addition to or not in derogation of the Articles 129 and 215 and they cannot be used for limiting or regulating the



WEB COPY



exercise of the jurisdiction contemplated by the said Articles. [*T.Sudhakar Prasad V. Government of Andhra Pradesh (2001) 1 SCC 516*]. When it is brought to the notice of the Court that its order has been willfully disobeyed, the accused may be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs.2,000/- or with both. [Section 12 of the Contempt of Courts Act, 1971]. When the Constitutional Court is confronted with an act of Contempt, its powers are not limited to handing out sentences alone. In *Elliot V. Klinger* (1967) 1 WLR 1165, the following passage from *Oswald's Contempt of Court* was cited:

“The Court, however has, power to restrain by injunction threatened contempts. It is competent for the Court where a contempt is threatened or has been committed, and on an application to commit, to take the lenient course of granting an injunction instead of making an order for committal or sequestration, whether the offender is a party to the proceedings or not.”

In *Howarth V. Howarth (L.R.) 11 P.D. 95*, it was held that when steps are taken for enforcing an order, the respondent has no right to say that he prefers going to prison; he is compellable to obey the order of the Court. **It was not beyond the power of the Court to ensure obedience of its order by directing the act to be done by some person appointed for that purpose instead of enforcing its order by imprisonment.**



WEB COPY



13.I intend to adopt the approach suggested above. The Executive Officer has made his position clear by his conduct. I, therefore, permit the petitioner to go up the Hill and light at the Deepathoon. I am conscious that this is only a symbolic gesture. But the importance of symbolism cannot be lost sight of. The petitioner can take ten other persons along with him including the other petitioners. Such assistance is required to carry the articles. I direct the Commandant, CISF Unit, Madurai Bench of the Madras High Court to send a team of CISF Personnel to offer protection to the petitioner and his associates in carrying out this court's order.”

6.When the writ petitioners along with their associates went to the foothill accompanied by CISF Personnel, Thiru.J.Loganathan, IPS, Commissioner of Police, Madurai City restrained them proceeding further up the hill. The Commissioner of Police, Madurai City informed the petitioners as well as the CISF team that in view of the promulgation of the order bearing No.C3/2952850/2025 dated 03.12.2025 under Section 163 of BNSS, 2023, by the District Magistrate and District Collector, Madurai, he was not in a position to respect the order of this Court. In these circumstances, the CISF team returned. The petitioners though had been expressly permitted by this Court to light the Deepam were not able to do so.



WEB COPY

7.Today, LPA(MD)No.8 of 2025 was filed by the District Collector, Madurai and the Commissioner of Police, Madurai City challenging the directions given by this Court yesterday. The matter was heard at considerable length and a very detailed order has been passed by the Hon'ble Division Bench dismissing the LPA. Paragraph Nos.33 and 34 of the order read as follows :

“33. In earlier order dated 01.12.2025, the responsibility to carry out work was entrusted to the fourth respondent. Later, having found that the fourth respondent failed to discharge his responsibility, the said responsibility has been given to the writ petitioners. This is neither altering the order nor modifying the order, but only changing the person who was supposed to discharge the responsibility of lighting lamp. Therefore, we find this appeal filed with ulterior motive to preempt contempt action is liable to be dismissed

34. With the above observations, this Letters Patent Appeal stands dismissed. Consequently, connected miscellaneous petition is closed.”

8.The Hon'ble Division Bench had also remarked on the propriety of the District Magistrate in passing the prohibitory order.



WEB COPY

9. From the sequence of events, it is too obvious that the prohibitory order referred to above was passed only to nullify the directions given by this Court and to give a convenient reason to the jurisdictional police to defy the order of this Court. When a judicial order has been passed that too by a Constitutional Court, so long as it is holding good, it has to be enforced. Article 261 of the Constitution of India reads that **full faith and credit shall be given throughout the territory of India to judicial proceedings of the union and of every State. Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.** Thus, this Article mandates that the jurisdictional police are obliged to assist in the enforcement of the order of this Court. They cannot defy for any reason whatsoever.

10. The Hon'ble Supreme Court in the decision reported in **2023 INSC 810 (NHPC Limited v. State of Himachal Pradesh)** held as follows :



WEB COPY



“13. At this juncture, we must highlight that separation of powers, as crystalised under the Indian Constitution, is characterised by division of power and functions between the legislature, executive and the judiciary, which are the three co-equal organs of the State. The doctrine also necessarily postulates that each institution has some power to regulate the functions of the others; this is in the form of the ancillary principle of “checks and balances.” The role of the judiciary in galvanising our constitutional machinery characterised by institutional checks and balances, lies in recognising that while due deference must be shown to the powers and actions of the other two branches of the government, the power of judicial review may be exercised to restrain unconstitutional and arbitrary exercise of power by the legislature and executive organs. The power of judicial review is a part of the basic feature of our Constitution which is premised on the rule of law. Unless a judgment has been set aside by a competent court in an appropriate proceeding, finality and binding nature of a judgment are essential facets of the rule of law informing the power of judicial review. In that context, we observe that while it may be open to the legislature to alter the law retrospectively, so as to remove the basis of a judgment declaring such law to be invalid, it is essential that the alteration is made only so as to bring the law in line with the decision of the Court. The defects in the legislation, as it stood



WEB COPY



before the Amendment and Validation Act of 1997 was enacted, must be cured by way of the amendments introduced retrospectively. Simply setting at naught a decision of a court without removing the defects pointed out in the said decision, would sound the death knell for the rule of law. The rule of law would cease to have any meaning if the legislature is at liberty to defy a judgment of a court by simply passing a validating legislation, without removing the defects forming the substratum of the judgment by use of a non-obstante clause as a technique to do so.”

The Hon'ble Supreme Court in ***State of T.N. v. State of Kerala, (2014) 12 SCC 696*** had held as follows :

“**126.1.** Even without express provision of the separation of powers, the doctrine of separation of powers is an entrenched principle in the Constitution of India. The doctrine of separation of powers informs the Indian constitutional structure and it is an essential constituent of rule of law. In other words, the doctrine of separation of power though not expressly engrafted in the Constitution, its sweep, operation and visibility are apparent from the scheme of Indian Constitution. Constitution has made demarcation, without drawing formal lines between the three organs—legislature, executive and judiciary. In that sense, even in the



WEB COPY



absence of express provision for separation of powers, the separation of powers between the legislature, executive and judiciary is not different from the Constitutions of the countries which contain express provision for separation of powers.

126.2. Independence of courts from the executive and legislature is fundamental to the rule of law and one of the basic tenets of Indian Constitution. Separation of judicial power is a significant constitutional principle under the Constitution of India.

126.3. Separation of powers between three organs—the legislature, executive and judiciary—is also nothing but a consequence of principles of equality enshrined in Article 14 of the Constitution of India. Accordingly, breach of separation of judicial power may amount to negation of equality under Article 14. Stated thus, a legislation can be invalidated on the basis of breach of the separation of powers since such breach is negation of equality under Article 14 of the Constitution.

126.4. The superior judiciary (High Courts and Supreme Court) is empowered by the Constitution to declare a law made by the legislature (Parliament and State Legislatures) void if it is found to have transgressed the constitutional limitations or if it infringed the rights enshrined in Part III of the Constitution.



WEB COPY



126.5. The doctrine of separation of powers applies to the final judgments of the courts. The legislature cannot declare any decision of a court of law to be void or of no effect. It can, however, pass an amending Act to remedy the defects pointed out by a court of law or on coming to know of it aliunde. In other words, a court's decision must always bind unless the conditions on which it is based are so fundamentally altered that the decision could not have been given in the altered circumstances.

126.6. If the legislature has the power over the subject-matter and competence to make a validating law, it can at any time make such a validating law and make it retrospective. The validity of a validating law, therefore, depends upon whether the legislature possesses the competence which it claims over the subject-matter and whether in making the validation law it removes the defect which the courts had found in the existing law.

126.7. The law enacted by the legislature may apparently seem to be within its competence but yet in substance if it is shown as an attempt to interfere with the judicial process, such law may be invalidated being in breach of doctrine of separation of powers. In such situation, the legal effect of the law on a judgment or a judicial proceeding must be examined closely, having regard to legislative prescription or direction. The questions to be asked are:



WEB COPY



(i) Does the legislative prescription or legislative direction interfere with the judicial functions?

(ii) Is the legislation targeted at the decided case or whether impugned law requires its application to a case already finally decided?

(iii) What are the terms of law; the issues with which it deals and the nature of the judgment that has attained finality?

If the answer to Questions (i) and (ii) is in the affirmative and the consideration of aspects noted in Question (iii) sufficiently establishes that the impugned law interferes with the judicial functions, the Court may declare the law unconstitutional.”

When legislatures including Parliament cannot nullify a judgment of the Constitutional Courts except in the manner indicated above, a District Magistrate cannot do so. The conduct of the District Magistrate can be examined after he enters appearance. But his order cannot be allowed to stand even for a second. If the officers are allowed to defy court's orders in this fashion, it will lead to anarchy. Such a situation is impermissible and must be nipped in the bud. Since the prohibitory order issued by the Collector overreaches the order passed by this Court, it stands quashed.



11. The Hon'ble Supreme Court in ***Abbas v. State of U.P.***,

WEB COPY

(1982) 1 SCC 71 had held as follows :

“27. The entire basis of action under Section 144 is provided by the urgency of the situation and the power thereunder is intended to be availed of for preventing disorders, obstructions and annoyances with a view to secure the public weal by maintaining public peace and tranquillity. Preservation of the public peace and tranquillity is the primary function of the Government and the aforesaid power is conferred on the executive magistracy enabling it to perform that function effectively during emergent situations and as such it may become necessary for the Executive Magistrate to override temporarily private rights and in a given situation the power must extend to restraining individuals from doing acts perfectly lawful in themselves, for, it is obvious that when there is a conflict between the public interest and private rights the former must prevail. It is further well settled that the section does not confer any power on the Executive Magistrate to adjudicate or decide disputes of civil nature or questions of title to properties or entitlements to rights but at the same time in cases where such disputes or titles or entitlements to rights have already been adjudicated and have become the subject-matter of

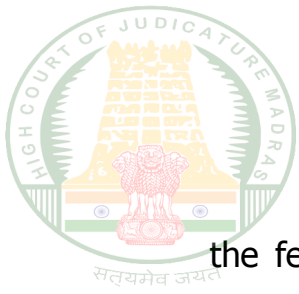


WEB COPY



judicial pronouncements and decrees of civil courts of competent jurisdiction then in the exercise of his power under Section 144 he must have due regard to such established rights and subject of course to the paramount consideration of maintenance of public peace and tranquillity the exercise of power must be in aid of those rights and against those who interfere with the lawful exercise thereof and even in cases where there are no declared or established rights the power should not be exercised in a manner that would give material advantage to one party to the dispute over the other but in a fair manner ordinarily in defence of legal rights, if there be such and the lawful exercise thereof rather than in suppressing them. In other words, the Magistrate's action should be directed against the wrong-doer rather than the wronged. Furthermore, it would not be a proper exercise of discretion on the part of the Executive Magistrate to interfere with the lawful exercise of the right by a party on a consideration that those who threaten to interfere constitute a large majority and it would be more convenient for the administration to impose restrictions which would affect only a minor section of the community rather than prevent a larger section more vociferous and militant.”

12. When the Supreme Court of the United States declared that there shall not be discrimination between students of any colour and



WEB COPY

the federal police declined to enforce the said order, the President of the United States Mr.Dwight D.Eisenhower called the Military and enforced the court order. Thiru.Loganathan, IPS must take inspiration from such examples.

13.When the Constitutional Court had declared the rights of the parties, the duty of the District Administration as well as the jurisdictional Police is to assist and aid in its enforcement. An order passed under Section 163 of BNSS cannot be in contravention of the judicial order passed by a Constitutional Court.

14.The Hon'ble Division Bench had confirmed the order passed by this Court. Since I have great regard and respect for the State Police, even while permitting the writ petitioners along with their associates numbering ten to go up the Hill and light the Deepam at the Deepathoon, I direct Thiru.J.Loganathan, IPS, Commissioner of Police, Madurai City as well as the police force under him to give fullest protection and bundobust to effectuate the direction passed in favour of the writ petitioners. I make it clear that if this order is disobeyed, harsh



WEB COPY

consequences will ensue. Thiru.J.Loganathan, IPS, Commissioner of Police, Madurai City is present before this Court through VC mode and this order was dictated in his presence.

15.Today (04.12.2025) is Sarvalaya Deepam Day. Therefore, Karthigai Deepam can be lit today also. This order should be read along with the earlier orders passed by this Court. Except deputing the CISF Personnel and the change regarding the date, in all other respects, the directions issued Yesterday hold good.

16.For reporting compliance, call this case on 05.12.2025 at 10.30 AM.

04-12-2025

SKM

Issue order copy immediately.

To

1.K.JPraveenkumar IAS, District Collector, Madurai.

2.J.Loganathan IPS, Commissioner of Police, Madurai City.

3.Yagna Narayanan, Executive Officer, Arulmigu Subramania Swamy Temple, Thirupparankundram, Madurai.

20/22



WEB COPY





WEB COPY



G.R.SWAMINATHAN,J.

SKM

CONT.P.(MD)No.3594 of 2025 in
W.P.(MD)No.32317 of 2025

04.12.2025