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L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.11.2025

Pronounced on : 10.12.2025

CORAM :

The Hon'ble Mr.Justice N.SATHISH KUMAR
and
The Hon'ble Mr.Justice M.JOTHIRAMAN

L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024
and
C.M.P.Nos.22810, 22857 and 22863 of 2025
and 18316, 18364 and 18367 of 2024

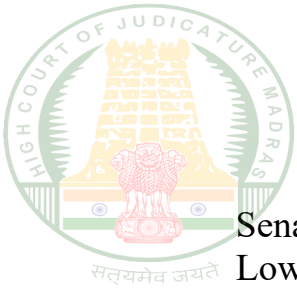
Ashit Kukian,
Authorised Signatory,
Music Broadcast Private Limited,
Radio City, No.117, Thiagaraya Road,
T.Nagar, Chennai-600 017. .. Appellant in LPA No.47/2025

Prashant G.Ramdass,
Authorised Signatory,
Entertainment Network India Ltd.,
Radio Mirchi, Fathima Akhtar Court,
453, Anna Salai, Chennai-600 018. .. Appellant
in LPA Nos.48 and 49/2025

1.Entertainment Network India Ltd.,
rep by its Directors- Mr.Vineet Jain,
Ground Floor, Trade Gardens,
Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013.

2.Vineet Jain, Director
Ground Floor, Trade Gardens,
Kamala Mills Compound,

1/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013.

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3.Narayanan Kumar, Director,
Ground Floor, Trade Gardens,
Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013.

4.Ravindra Krishna Kulkarni, Director,
Ground Floor, Trade Gardens,
Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013.

5.Richard Blaise Sebastian Saldanha, Director,
Ground Floor, Trade Gardens,
Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013.

6.Subramanian Narayanan, Director,
Ground Floor, Trade Gardens,
Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013.

7.Sukanya Kripalu, Director,
Ground Floor, Trade Gardens,
Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013.

8.Yatish Gopendranath Mehrishi, Director,
Ground Floor, Trade Gardens,
Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013.

9.Mehul Rasiklal Shah, Director,
4th Floor, Matulya Centre, A-Wing,

2/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Senapati Bapat Marg, Lower Parel (W),
Mumbai MH 400 013 IN
mehul.shah@timesgroup.com.

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10.Prashant Panday, CEO & MD,
Ground Floor, Trade Gardens,
Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West), Mumbai-400 013. .. Appellant
in LPA No.15 of 2024

Music Broadcast Limited,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.
rep by its Deputy General Manager-Legal,
Mr.Chaitanya Dikshit.
[Cause title accepted vide order dt.21.08.2024
made in CMP Nos.18239 and 18250 of 2024
in LPA SR Nos.110537 and 110704 of 2024] .. Appellant in
LPA Nos.16&17 of 2024

Vs.

The South Indian Music Companies Association,
3rd Floor, Vishsha Home,
47, Ramanujam Street,
T.Nagar,
Chennai-600 017. .. Respondent
in LPA Nos.47 and 48/2025

J.Swaminathan,
Secretary,
The South Indian Music Companies Association,
3rd Floor, Vishsha Home,
47, Ramanujam Street,
T.Nagar, Chennai-600 017. .. Respondent in LPA No.49/2025

3/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Phonographic Performance Limited,
rep by its State-Head Mr.Sidhik Ahmed SS

Crescent Towers, 7th Floor, B-68,
Veera Estate, Off. New Link Road,
Andheri(W), Mumbai-400 053.

.. Respondent in LPA No.15/2024

1.Phonographic Performance Limited,
rep by its State-Head Mr.Sidhik Ahmed SS
Crescent Towers, 7th Floor, B-68,
Veera Estate, Off. New Link Road,
Andheri(W), Mumbai-400 053.

2.Anuj Puri, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

3.Vijay Tandon, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

4.Shailesh Gupta, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

5.Madhukar Prabhakar Kamath, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

6.Rahul Gupta, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),

4/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Mumbai-400 051.

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7. Anita Nayyar, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

8. Ravi Sardana, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

9. Prashant Dalpatrai Domadia, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

10. Arpita Mehrotra Kapoor, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

11. Ashit Mahabal Kukian, Director,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

12. Ashit Kukian, CEO,
5th Floor, RNA Corporate Park,
Off Western Express Highway,
Kalanagar, Bandra (East),
Mumbai-400 051.

.. Respondents
LPA Nos.16& 17 of 2024

L.P.A.No.47 of 2025 has been filed under Clause 15 of the Letters Patent
5/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

against the order dated 26.08.2025 passed by the learned Single Judge in Contempt Petition No.3238 of 2024.

L.P.A.No.48 of 2025 has been filed under Clause 15 of the Letters Patent against the order dated 26.08.2025 passed by the learned Single Judge in Contempt Petition No.3239 of 2024.

L.P.A.No.49 of 2025 has been filed under Clause 15 of the Letters Patent against the order dated 26.08.2025 passed by the learned Single Judge in Contempt Petition No.3380 of 2024.

L.P.A.No.15 of 2024 has been filed under Clause 15 of the Letters Patent seeking to aside the order dated 31.07.2024 made in Contempt Petition No.2016 of 2023.

L.P.A.No.16 of 2024 has been filed under Clause 15 of the Letters Patent seeking to aside the order dated 31.07.2024 made in Contempt Petition No.2018 of 2023.

L.P.A.No.17 of 2024 has been filed under Clause 15 of the Letters Patent seeking to aside the order dated 31.07.2024 made in Contempt Petition No.2017 of 2023.

For Appellants : Mr.N.L.Rajah, Senior Advocate
for Ms.Gladys Daniel in LPA Nos.47/2025
and 16 and 17 of 2024

Mr.G.Masilamani, Senior Advocate,
for Mr.Jose John, Mr.M.Narendran,
Mr.D.Prajesh for M/s.King & Partridge
in LPA Nos.48 and 49 of 2025 and 15 of 2024

For Respondents : Mr.M.V.Swaroop, Mr.H.S.Hredai and
Mr.B.Devadharshini
in LPA.Nos.47, 48 and 49 of 2025



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L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Mr.Vijay Narayan, Senior Advocate
for Mr.J.Adhitya Reddy in LPA No.15/2024
for R-1 in LPA Nos.16 and 17 of 2024
Mr.C.Daniel for RR2 to 12
in LPA Nos.16 and 17/2024

COMMON JUDGMENT

N.SATHISH KUMAR, J.

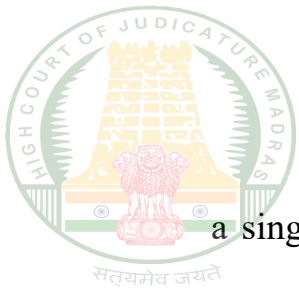
These Letters Patent Appeals have been filed against separate orders, dated 31.07.2024 made in Contempt Petition Nos.2016, 2018 and 2017 of 2023 and the common order dated 26.08.2025 passed in contempt petition Nos.3238, 3239 and 3380 of 2024.

2.The facts which led to filing of these appeals are as follows:

2.1.Entertainment Network India Limited is a leading media company operates radio broadcasting stations which is also called as 'Radio Mirchi' in India. Hereinafter, Entertainment Network India Limited is called as 'ENIL' for short in this common judgment.

2.2.Phonographic Performance Limited ['PPL' for short] is a copyright society that grants license to broadcast the music. PPL has been formed by major music companies and it represents the owners of sound recordings (record labels). Sony Music T – Series, Saregama, Aaditya Music etc. are some of its members. The broadcasters like ENIL can take

7/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

a single license from PPL instead of negotiating with each record label separately to use their music in their radio stations. PPL collect the license fees and then distributes royalties to its members based on the usage. The main aim of the society is to ensure that the commercial rights of record labels are not exploited without payment. As some of the music works are not covered by the PPL license, the ENIL has to approach the Copyright Board seeking for compulsory license. For broadcasting the music through radio stations, the ENIL requires license. Therefore, initially ENIL has paid PPL the amount fixed by it to broadcast the music. But some music owned by Super Cassettes Industries Ltd., could not broadcast by ENIL as it was not covered by the license given by the PPL. Though ENIL tried to get a license, it was not fructified. So ENIL could not broadcast the copyrighted music without a valid license. Therefore without any other option, the ENIL had invoked the provisions of the Copyright Act, 1957 i.e., under section 31(1)(b) seeking for a compulsory licensing fee.

2.3.Music Broadcast Private Limited ['MBPL' in short] is also a radio operator which broadcast songs through their radio stations. To broadcast the music, one has to get license form copyright holders. As PPL is the corporate society for sound recordings, the MBPL approached

8/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

PPL to get license, but PPL demanded Rs.2400/- per needle hour or 20% of net advertisement revenue. Needle hour means actual time of music broadcast excluding advertisement, talk etc., Since the demand is exorbitant, the MBPL along with other radio stations approached Copyright Board by filing applications under Section 31(1)(b) of the Copyright Act 1957 seeking for compulsory license.

2.4.Under section 31(1)(b), if a Copyright owner refuses to grant a license for broadcasting of such work on reasonable terms, the Copyright Board can order license on terms it considers just and equitable including royalty rate. The Copyright Board vide order dated 19.11.2002 passed an order by granting a standard royalty rate at the rate of Rs.1200/- per needle hour during prime time. Further for 12 normal hours, 60% of standard rate, for 8 lean(night) hours, 25% of standard rate and respondents also directed to furnish a security / bank guarantee of Rs.20,00,000/- per radio station to PPL. The said direction can be in operation for 2 years and the same shall be reconsidered again during September – October 2004. The Copyright Board fixed royalty initially for a period of 2 years. So challenging the order of the copyright board, appeals were filed before the Bombay High Court by the radio companies and the PPL. The Bombay High Court vide a common judgement dated 13.04.2004 remitted the matter back to Copyright Board for

9/41

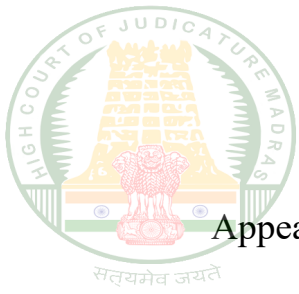


L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

reconsideration and for fixation of license fee. Further the appeal preferred before the Delhi High Court was allowed remitting the matter back to the Copyright Board to reconsider the application of the appellant for the grant of compulsory licenses under section 31 after giving adequate opportunities to the concerned parties.

2.5.Subsequently the ENIL has preferred for special leave to appeal in Civil Appeal nos. 5114 of 2005, etc., The Hon'ble Supreme Court vide order dated 16.05.2008 set aside the order of the Copyright Board and remitted the matter back to the Board for consideration of the same afresh on merit. After the remand, the copyright board passed an order dated 25.08.2010, fixing the license fee at 2% of the net advertising revenue payable to all music providers, whether parties or non-parties before the Board and the license fee was fixed for a period of 10 years from 01.09.2010 to 31.08.2020.

2.6.One South Indian Music Companies Association has also filed appeals before this Court challenging the aforesaid order of the copyright board. South Indian Music Companies Associations (SIMCA for short) represents many South Indian producers and labels, is an association of music production and distribution companies in South India. SIMCA was not a party in the proceedings before the Copyright Board. So aggrieved by the order of the copyright board, SIMCA has filed Civil Miscellaneous 10/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Appeals under section 72(2) of the Copyright Act, 1957.

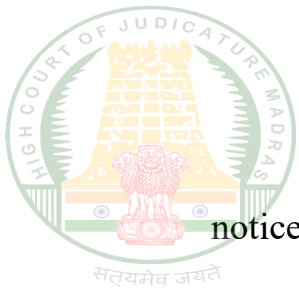
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2.7.It is to be noted that the order passed by the copyright board on 19.11.2002, is called as 1st licensing case. The order of the copyright board dated 25.08.2010 is called as 2nd license case. The PPL has also challenged the orders of the copyright board dated 25.08.2010 by filing CMA 's before this Court. One Super Audio Madras Private Limited has also filed appeals before this Court and therefore multiple CMAs were filed before this court challenging the second order of the copyright board dated 25.08.2010.

2.8.This Court, by an elaborate common judgment dated 27.04.2023 has held that the order of the copyright board dated 25.08.2010 is not applicable to SIMCA and SIMCA is not bound by the royalty fixed by the copyright board and at the same time, it upheld the royalty fixed by the Copyright Board at 2% and additionally it modified the order of the copyright board by providing the minimum floor rate payable to the appellant at Rs.660/- per needle hour uniformly irrespective of timing or City/ Town when songs are played since the order was with respect to the past decade 2010-2020.

2.9.The judgment of this Court in the CMAs were carried to Hon'ble Supreme Court by way of SLP(C) Nos.10085-10088 of 2023, etc., The Hon'ble Supreme Court vide order dated 15.05.2023 had issued

11/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

notice and passed an interim order that any payment made in the meantime shall abide by the final result of these proceedings and there was no interim stay granted.

2.10. In the meantime, there were exchange of various communications between the parties regarding payment of fees. Subsequently, two sets of contempt petitions have been filed before this court, one by PPL and the another one by SIMCA.

2.11. The PPL has filed one set of contempt petitions contending that the demand made to the ENIL and Music Broadcast (P) Ltd. to pay the royalty dues for the period from September 2010 to September 2020, was denied by them, despite the ENIL has admitted before Hon'ble Supreme Court that Rs.40 Crores and MBL had admitted Rs.31 Crores are to be paid to PPL but the denial of the same by the broadcasters amounts to gross violation of the order of the court. It is the contention of the ENIL and MBL that the order in the CMAs is executable as a decree as per Order XXXIX of the Madras High Court Original Side Rules read with section 75 of the Copyright Act and not by filing contempt petitions. Further they have paid the PPL the licence fee as per the copyright board order and also paid the amount fixed for a period of 10 years upto 30.08.2020. Further the submission before the Hon'ble Supreme Court regarding Rs.40 Crores and Rs.31 Crores is in no manner an admission of

12/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

liability and the SLP is pending and only an interim order has been passed.

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2.12.The learned single Judge by separate orders dated 31.07.2024 in the above three contempt petitions filed by PPL against ENIL and MBC gave directions to the ENIL and MBC to deposit 50% of the amount they had projected in their grounds of appeal in the SLP against the judgment in the CMAs, within a period of four weeks and the matter was directed to be listed for reporting compliance on 30.08.2024.

2.13.The SIMCA has also filed a set of contempt petitions against the broadcasters Music Broadcast (P) Ltd. and ENIL on the ground that the broadcasters were asked to furnish log of all music played by all radio stations run by them from August 2010 to December 2020 and to pay its members the amount as calculated in compliance of the order dated 27.04.2023 in the CMAs. As there was no response, the contempt petitions were filed. Since no stay has been granted by the Hon'ble Supreme Court against the order dated 27.04.2023, the music broadcasters should make the payment of royalty to the members of SIMCA and though the individual members of the SIMCA had sought for details of the log sheet/play list for the period between August 2010 and May, 2020 in order to ascertain the dues payable by the broadcasters, the same were not provided. It is the contention on the side of broadcasters

13/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

that there is no enforceable order or decree in favour of SIMCA and therefore, the directions issued in the order dated 27.04.2023 do no apply to SIMCA and there were separate agreements between the broadcasters and SIMCA.

2.14.The learned single Judge considering the submissions made passed an order dated 26.08.2025 giving directions to the respondents therein, namely broadcasters to produce the log of all music pertaining to the SIMCA association played for the radio stations run by the respondent broadcasters for the period from August 2010 to December 2020 and also to calculate the royalty payable as the needle per hour rate and to furnish the same to the court and adjourned the matter for compliance.

2.15.Aggrieved over the order of the learned single Judge in the aforesaid six contempt petitions, the present Letters Patent Appeals have been preferred.

3.Learned Senior Advocates Mr.G.Masilamani and Mr.N.L.Rajah in one voice submitted that the amount has not been quantified in the judgment passed by this Court in CMAs. Hence, it is their contention that once the order for payment of money has been passed and the amount has not been quantified, the proper remedy would be to file an application before the Registrar of the High Court for issuance of certificate as per Section 75 of the Copyright Act, 1957, so that the order could be treated

14/41

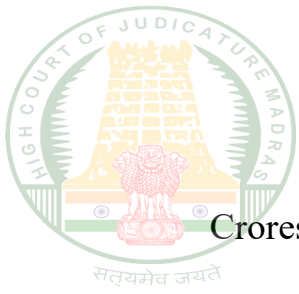


L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

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as a decree of the Civil Court and it becomes executable. When the amount has not been quantified in the final judgment passed in the CMAs, the very contempt itself is not maintainable. Therefore, the learned Single Judge passing directions in the contempt applications to deposit the amount amounts to adding or substituting the original order which was already in challenge before the Hon'ble Supreme Court and the same is also numbered as Civil Appeal Nos.13220-13223 of 2024. Hence, it is their contention that the learned Single Judge lacks jurisdiction in the contempt proceedings to add or substitute any new directions. The contempt application and execution proceedings cannot go parallel. When the substantive Act, namely the Copyright Act, 1957 provides the manner of execution, without filing the execution petition and even without ascertaining the amount to be paid by filing necessary application for issuance of certificate by the Registrar of the High Court, the contempt petitions are not maintainable and the learned Single Judge in the contempt proceedings cannot add additional directions when the original order is already challenged before the Hon'ble Supreme Court.

4.It is their further contention that the Hon'ble Supreme Court has not granted any interim stay of the order passed by the learned single Judge in the CMAs and further, the submission before the Hon'ble Supreme Court with regard to the liability of Rs.40 Crores and Rs.31
15/41

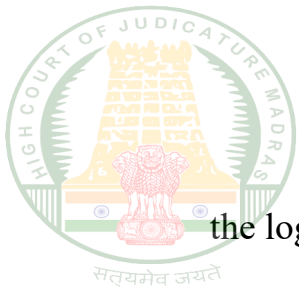


L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Crores in the pleadings cannot be construed to mean as an admission to pay the amount. Therefore, the order of the learned Single Judge in the contempt petitions is not maintainable.

5. Further, it is the contention of the learned senior advocates that as far as the SIMCA is concerned, they are not party before the copyright board and they are only an association of music providers and distribution companies. When the copyright board has passed an order fixing the license fee at 2% of the net advertising revenue payable to all music providers, the SIMCA has filed third party appeals before this Court inter-alia contending that since they are not parties to the order of the copyright board, the decision will not bind on them. While disposing the entire CMAs, the learned Single Judge has held that the order of the copyright board will not be binding on SIMCA as according to SIMCA, their members have entered into individual agreements with the appellants. Therefore, they are entitled to the amount as per the agreed terms of the contract, whereas while disposing CMAs, learned Single Judge has held that the order of the copyright board will not be binding on SIMCA and except that, there was no order passed in favour of SIMCA by the learned Single Judge. However, SIMCA has filed contempt petitions contending that they are entitled to recovery of amount as per their contract which is not permissible and the learned Single Judge's order directing to furnish

16/41



the log of all music pertaining to SIMCA played by the radio stations from August 2010 to December 2020 in the contempt petitions is also not correct.

6. In support of their contentions, the learned Senior Advocates for appellants have relied on various case laws and this court deems it appropriate to cite a few cases which are relevant to decide the case on hand.

(i) ***Niaz Mohammad and others Vs. State of Haryana***

reported in ***(1994) 6 SCC 332*** has been relied on to say that the party in whose favour an order has been passed is entitled to the benefit of such order and the court while considering the issue as to whether the alleged contemnor should be punished for not having complied with and carried out the direction of the court has to take into consideration all the facts and circumstances of a particular case and there must be willful disobedience to any judgment, decree, direction, order, writ or other process of a court and the court must be satisfied that such disobedience was willful and intentional.

(ii) ***R.N.Dey and others Vs. Bhagyabati Pramanik and***

others reported in ***(2000) 4 SCC 400*** to contend that the

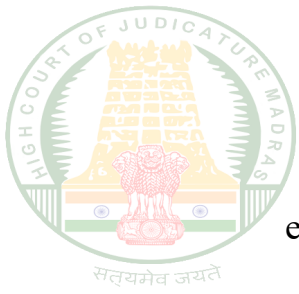


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weapon of the contempt is not to be used in abundance or misused and normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. The decree holder who does not take steps to execute the decree in accordance with the procedure prescribed by law should not be encouraged to invoke contempt jurisdiction of the court for non satisfaction of the money decree.

(iii) ***Dinesh Kumar Gupta vs. United India Insurance Company Limited*** reported in ***(2010) 12 SCC 770*** for the proposition that the civil contempt will not lie if the order itself provides scope for reasonable or rational interpretation of an order or circumstance which is the factual position in the instant matter. Casual or accidental or unintentional disobedience is not sufficient to justify for holding one party guilty of contempt.

(iv) In ***Kanwar Singh Saini s. High Court of Delhi*** reported in ***(2012) 4 SCC 307***, Hon'ble Supreme Court held that when the matter relates to the infringement of a decree or decretal order embodies rights as between the parties, it is not expedient to invoke and exercise contempt jurisdiction, in



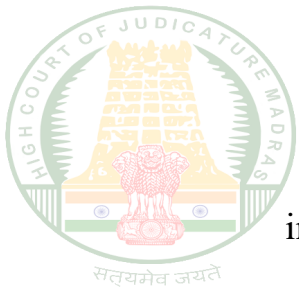
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essence, as a mode of executing the decree or merely because other remedies may take time or are more circumlocutory in character.

(v) In *Rama Narang Vs. Ramesh Narang* reported in (2021) 15 SCC 338, it has been held that the court should be satisfied that not only about the disobedience of any judgment, decree, direction or writ but also that such disobedience was willful and intentional.

(vi) In *Jhareswar Prasad Paul Vs. Tarak Nath Ganguly* reported in (2002) 5 SCC 352, it has been stated that the contempt jurisdiction should be confined to the question whether there has been any deliberate disobedience of the order of the court and if the conduct of the party who is alleged to have committed such disobedience is contumacious.

(vii) In *Prithawi Nath Ram Vs. State of Jharkhand* reported in (2004) 7 SCC 261, it has been held that while dealing with an application for contempt, the court cannot traverse beyond the order, non compliance with which is alleged and it cannot test the correctness or otherwise of the order or give additional direction or delete any direction and that would amount to exercising review jurisdiction which is



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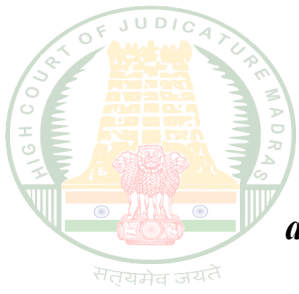
L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

impermissible and indefensible.

(viii)A Hon'ble Division Bench of this Court in ***Tamilnad Mercantile Bank Ltd., and others Vs. Tamilnad Mercantile Bank Shareholders' Welfare Association*** reported in **2006 (2) CTC 97** has held that if a party concerned is aggrieved by the order which in its opinion is wrong or against the rules or its implementation is neither practicable nor feasible, it should always either approach the court that passed the order or invoke the jurisdiction of the appellate court. The rightness and wrongness of the order cannot be urged in the contempt proceedings.

(ix)Another Hon'ble Division Bench decision of this Court in ***Chemplast Sanmar Limited Vs. The Appellate Authority, Tamil Nadu Pollution Control Board and others*** reported in **2008 (4) CTC 793** has been relied on to say that any admission if were to be put against a party must be examined inside out to see if it suggests any clear inference on the fact in issue, that such admission must be unequivocal, that it must be comprehensive and it must go the whole-hog as it were the point of issue.

(x)In ***Balraj Taneja and another Vs. Sunil Madan and***

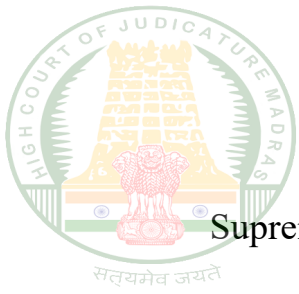


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another reported in (1999) 8 SCC 396, Hon'ble Supreme Court has held that even if the judgment was passed on the basis of the admission made by a party, other requirements which go to constitute “judgment” should be complied with. The court must state the grounds for its conclusion in the judgment and the judgment must be in conformity with the provisions of section 2(9) of the Code of Civil Procedure, 1908.

7.The learned senior Advocate Mr.Vijay Narayan and the learned counsel Mr.M.V.Swaroop, appearing for respondents would submit that while disposing of the CMAs by learned Single Judge, the learned Single Judge while retaining the order of the copyright board, has further modified the same by fixing a minimum floor rate of Rs.660/- per needle hour. Therefore, as far as fixing the said amount, there is no dispute. Thereafter, a lot of communications were exchanged between the parties. Therefore, when there is no dispute about the needle hour and the nature of payment to be made by the parties, the direction of the learned single judge in the contempt proceedings to deposit the amount does not require any interference. Further, it is their contention that the appellants themselves have admitted in their affidavits filed before the Hon'ble

21/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Supreme Court about their liability in pursuance of the order of the learned single Judge. Therefore, as long as there is no dispute with regard to the amount, the direction made by the learned single judge does not warrant any interference. Further, merely because the order of the copyright board is executable as per the decree of the civil court, that will not take away the power of the High Court to entertain the contempt. There is no dispute that the contempt proceedings and execution petition can go parallel.

8.In support of the aforesaid submissions, the learned senior advocate and the learned counsel appearing for the respondents have relied on case laws and it is relevant to cite a few case laws which are relevant to dispose of the case and the same is as follows:

(i)In ***Balwantbhai Somabhai Bhandari Vs. Hiralal Somabhai Contractor*** reported in ***(2023) 17 SCC 545***, it has been held that the contemnor should not be allowed to enjoy or retain the fruits of the contempt and no technicality can prevent the court from doing justice in the exercise of its inherent power.

(ii)In ***Celir LLP Vs. Sumati Prasad Bafna and others*** reported in ***2024 INSC 978***, it has been held that even when no undertaking is given to the court, a party to a



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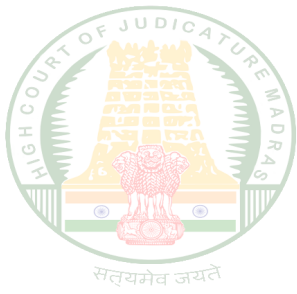


L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

litigation may be held liable for contempt if the court is induced to sanction a particular course of action or inaction on the basis of the representation of the party, which the party never intended to act on and such representation was false.

(iii)The Hon'ble Division Bench of this Court in *India Forge and Drop Stampings Ltd. Vs. India Forge and Drop Stampings Employees' Union* reported in *1991 (I) LLN 845* has held that merely because an order of the court could be executed or was capable of being enforced through a manner known to law, it does not allow the party disobeying that order to escape the consequences of willful disobedience of the order under the Contempt of Courts Act, 1971.

(iv)Much emphasis has been made on the judgment of Hon'ble Supreme Court in *Delhi Development Authority Vs. Skipper Construction Co. (P) Ltd. and another* reported in *(1996) 4 SCC 622* to the effect that when the company defrauding others in deliberate disobedience of Supreme Court's orders, the Hon'ble Supreme Court has power to make appropriate orders in



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L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

the contempt proceedings to grant the relief to the persons aggrieved in order to do complete justice. In paragraph 17 of the said decision, it was held as follows:

‘17. The principle that a contemner ought not to be permitted to enjoy and/or keep the fruits of his contempt is well settled. In *Mohd. Idris v. Rustam Jehangir Babuji* [(1984) 4 SCC 216 : 1984 SCC (Cri) 587 : (1985) 1 SCR 598] this Court held clearly that undergoing the punishment for contempt does not mean that the court is not entitled to give appropriate directions for remedying and rectifying the things done in violation of its orders. The petitioners therein had given an undertaking to the Bombay High Court. They acted in breach of it. A learned Single Judge held them guilty of contempt and imposed a sentence of one month's imprisonment. In addition thereto, the learned Single Judge made appropriate directions to remedy the breach of undertaking. It was contended before this Court that the learned Judge was not justified in giving the aforesaid directions *in addition to* punishing the petitioners for contempt of court. The argument was rejected holding that “the Single Judge was quite right in giving appropriate directions to close the breach (of undertaking)”. ‘

(v)The Hon’ble Supreme Court in *Rama Narang Vs. Ramesh Narang* reported in *(2006) 11 SCC 114* has held that merely because an order or decree is executable would not take away the court’s jurisdiction to deal with the matter under the Act provided the court is satisfied that the violation of the order or decree is such that if proved, it



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L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

would warrant punishment.

(vi) Hon'ble Supreme Court in ***Baranagore Jute Factory PLC. Mazdoor Sangh (BMS) and others Vs. Baranagore Jute Factory PLC. and others*** reported in ***(2017) 5 SCC 506*** has held that the court has a duty to issue appropriate directions for remedying or rectifying the things done in violation of the orders and in that regard, the Court may even take restitutive measures at any stage of the proceedings. Taking note of the fact that the contemnor has committed violation of orders of the court, the contempt was held to be maintainable.

(vii) A decision of Hon'ble Division Bench of this Court in ***Shurbir Singh and others Vs. V.Gomathi*** reported in ***2021 SCC OnLine Mad 11295*** has been relied on to say that the court while considering the issue as to whether the alleged contemnor should be punished for not having complied with and carried out the directions of the court, has to take into consideration all facts and circumstances of a particular case.

(viii) In ***Urban Infrastructure Real Estate Fund Vs. Dharmesh S. Jain and another*** reported in ***(2022) 6 SCC***



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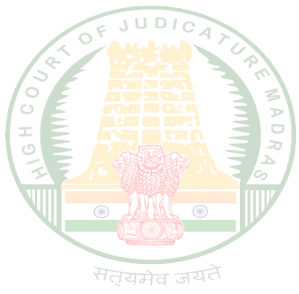
L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

662, it has been held that the contempt is a matter which is between the court passing the order and the contemnor, the questions as to the executability of such order is a question which concerns the parties inter se. The power of the court to invoke contempt jurisdiction is not in any way altered by the rights of the parties.

9. Heard the learned senior counsel and the learned counsel appearing for the parties and perused the materials available.

10. In view of the dispute arose between the parties regarding playing of songs for which copyright vested with one PPL, the matter went to the copyright board seeking to grant of compulsory licence. Originally the copyright board by order dated 19.11.2002 fixed standard rate of payment to be paid at Rs.1200/- per needle hour during prime time. For 12 normal hours = 60% of standard rate, for 8 lean (night) hours = 25% of standard rate and respondents also directed to furnish a security / bank guarantee of Rs.20,00,000/- per radio station. This order was challenged before the Bombay High Court and the same has been remitted back to the copyright board for fresh consideration. Similarly, some appeals have been filed before the Delhi High Court which remitted the matter back to the copyright board for reconsideration.

26/41

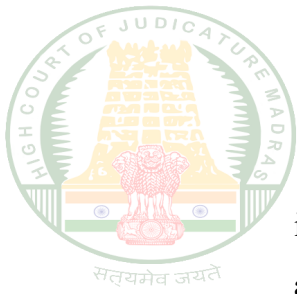


L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

11. Subsequently, the judgments of Bombay High Court and Delhi

High Court were challenged before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide judgment dated 16.05.2008 reported in (2008) 13 SCC 30 [Entertainment Network (India) Limited Vs. Super Cassette Industries Limited] has set aside the order of the copyright board and remitted the matter back for fresh consideration by the copyright board and permitted the parties to examine the witnesses on their side. The copyright board once again decided the matter on 25.08.2010 and passed an order in exercise of power conferred under section 31(1)(b) of the Copyright Act, 1957 directed the Registrar of Copyrights to grant to the complainants separate licenses for communicating the work recorded in sound recordings in the repertoire, present and future, of the respondent to the public by broadcast on revenue sharing basis subject to the following terms and conditions:

‘(a) 2% of net advertisement earnings of each FM radio station accruing from the radio business only for that radio station shall be set apart by each complainant for pro rata distribution of compensation to all music providers including the respondent herein in proportion to the music provided by the respective music providers and broadcast by the complainant. Complainant shall be deemed to be a music provider for the music provided by it or received by it free of cost and broadcast. For arriving at “net advertisement earnings”, all Government and municipal taxes paid,



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L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

if any, and commission paid towards the procurement of such advertisements to the extent of 15% of such advertisement earnings shall be excluded;

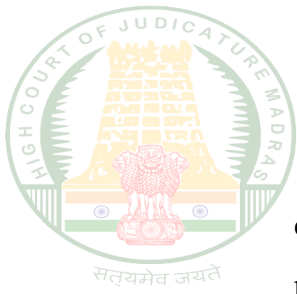
(b) Complainants shall furnish within a week of grant of licence by the Registrar of Copyrights a bank guarantee for Rs.10,000 in favour of the respondent for each radio station. However, the sum of such bank guarantee shall be revised within two weeks after the close of every quarter of the year to such sum for which complainant was liable for payment of compensation for that quarter. Quarter of a year means a period of three months ending on the last day of March, June, September and December of the relevant year;

(c) If the complainant fails to revise the bank guarantee in terms of clause (b), respondent shall be at liberty to cancel the licence without giving any notice and recover the remaining dues from the available bank guarantee;

(d) Payment of compensation by the complainant to the respondent for a month shall be made by 7th day of the month following the month to which payment relates. Complainant shall also furnish along with the payment the date wise details of the periods for which the music relating to the respondent and all other music providers has been used for the month. However, payment for the period beginning with the grant of licence and ending on 30th September, 2010 shall be made in lump sum by 7th October, 2010;

(e) For any delayed payment for a month beyond 7th of the following month, interest at the rate of 1% per month or a part of month shall be payable;

(f) In case payment is not made by the complainant for a radio station for consecutive two months, respondent herein shall be



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L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

entitled to cancel the licence by giving notice of one month and recover the remaining dues from the bank guarantee;

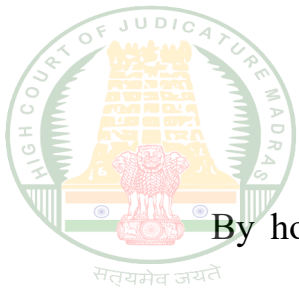
(g)A complainant may for one or more radio stations, by giving notice of one month and after making payment of all sums due, cancel the licence;

(h)The validity of the licence granted by the Registrar of Copyright shall come to end on 30th September, 2020.'

While disposing the case, the copyright board has held that the order of the copyright board shall bind not only on the applicants and respondents before the said board but to all music providers which resulted in SIMCA filing third party appeals in C.M.A.Nos.3490, 3491, 3492 and 3493 of 2010 and PPL has also filed appeals in C.M.A.Nos.3293, 3382, 3383, 3384, 3385, 3387, 3388, 3389 and 3390 of 2010.

12.While disposing of CMAs, the learned single judge in paragraph 167 has held as follows:

'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.'



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

By holding that the appeal filed by the SIMCA is maintainable, while disposing of the CMAs, it was held that the order of the copyright board dated 25.08.2010 is not applicable to SIMCA and the SIMCA is not bound by the royalty determined by the copyright board. That apart, this court has also held that the royalty determined by the copyright board at 2% of net advertisement earnings is upheld and additionally, the order of copyright board was modified by providing minimum floor rate of Rs.660/- per needle hour uniformly irrespective of the timing or city/town when the songs were played since this order is with respect to the past decade 2010-2020.

13.From the order of the learned Single Judge, it could be discernible that it was held that the order of the copyright board is not binding on the SIMCA and the members of the SIMCA had independent agreements with radio stations and in such a case, the SIMCA's right was accruing on the basis of the so called agreements they have with the radio stations and as per their agreements, different tariff has been agreed. Therefore, it is clear that the SIMCA without enforcing the agreement for recovery of the amount, has now moved this court by way of contempt proceedings. In our view, such a course is nothing but a clear advantage taken by the SIMCA to recover the amount as per the agreement without enforcing the so-called agreement against the radio stations. Therefore

30/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

when the order of the learned single Judge upholding the order of the copyright board and also fixing additional amount has been challenged before the Hon'ble Supreme Court, no interim stay has been granted by the Hon'ble Supreme Court but the fact remains that the appeals filed by the appellant herein is numbered as regular Civil Appeal Nos.13220-13223 of 2024.

14. Admittedly, now the appeals before the Hon'ble Supreme Court have been numbered. Therefore, even at this stage, entertaining the contempt proceedings before this court is not permissible. Hon'ble Supreme Court in *Kunhayammed and others Vs. State of Kerala* reported in **(2000) 6 SCC 359** had held in paragraph 44 as follows:

'44. To sum up, our conclusions are:

(i) Where an appeal or revision is provided against an order passed by a court, tribunal or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, the decision by the subordinate forum merges in the decision by the superior forum and it is the latter which subsists, remains operative and is capable of enforcement in the eye of law.

(ii) The jurisdiction conferred by Article 136 of the Constitution is divisible into two stages. The first stage is upto the disposal of prayer for special leave to file an appeal. The second stage commences if and when the leave to appeal is granted and the special leave petition is converted into an appeal.

(iii) The doctrine of merger is not a doctrine of universal or



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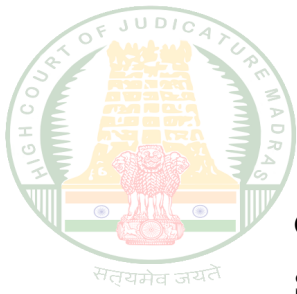


L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

unlimited application. It will depend on the nature of jurisdiction exercised by the superior forum and the content or subject-matter of challenge laid or capable of being laid shall be determinative of the applicability of merger. The superior jurisdiction should be capable of reversing, modifying or affirming the order put in issue before it. Under Article 136 of the Constitution the Supreme Court may reverse, modify or affirm the judgment-decree or order appealed against while exercising its appellate jurisdiction and not while exercising the discretionary jurisdiction disposing of petition for special leave to appeal. The doctrine of merger can therefore be applied to the former and not to the latter.

(iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.

(v) If the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme



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L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

Court rejecting the special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties.

(vi) Once leave to appeal has been granted and appellate jurisdiction of Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation.

(vii) On an appeal having been preferred or a petition seeking leave to appeal having been converted into an appeal before the Supreme Court the jurisdiction of High Court to entertain a review petition is lost thereafter as provided by sub-rule (1) of Rule 1 of Order 47 CPC. ‘

15.The above conclusions summed up in aforesaid ***Kunhayammed*** case has also been reiterated in ***Khoday Distilleries Limited Vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Limited*** reported in ***(2019) 4 SCC 376***. Be that as it may, it is relevant to note that while filing application for stay before Hon’ble Supreme Court, the appellants averred in the affidavit to the effect that the order of the learned single judge fixing additional amount casts further liability to the tune of Rs.40 Crores and Rs.31 Crores respectively. The learned Single Judge has given much emphasis to such pleadings as if the appellants have admitted before the Hon’ble Supreme Court their liability. It is relevant to note that when an affidavit has been filed expressing the difficulty about the order



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

passed by the court to show the hardship that may be caused to them by the order of that court, we are of the view that such pleadings cannot be construed as an admission about their liability to make payment.

16. The learned single Judge has passed the order affirming the 2% of the net advertising earnings and additionally fixed minimum floor rate of Rs.660/- per needle hour. There were many correspondences exchanged between the parties and we have also seen the correspondences. Though the respondents claimed certain amounts on the basis of needle hour as fixed by this Court, it has been disputed by the other side. Therefore, we are of the view that unless the amount is ascertained in the final order of the Court and if anybody disobeys the order, then certainly it can be said that though alternate remedy of execution is available, still the contempt is maintainable but the fact remains that in the original order of CMAs passed by the learned single Judge, the amount payable by the appellants has not been quantified. The order in the CMAs directs fixing of the amount per needle hour. But the amounts payable on the basis of the per needle hour for the songs played has not been quantified, the same has to be evaluated and it is to be first ascertained. We are of the view that without ascertaining and quantifying the definite amount, we cannot say that there is disobedience and willful disobedience and it is intentional. The respondents ought to have filed

34/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

application before the Registrar to issue a certificate in terms of section 75 of the Copyright Act, 1957. The amount should have been determined and thereafter only, the same could be executable as a decree of a Civil Court. Section 75 of the Copyright Act, 1957 reads as follows:

‘75.Orders for payment of money passed by Registrar of Copyrights to be executable as a decree.- Every order made by the Registrar of Copyrights under this Act for the payment of any money or by the High Court in any appeal against any such order shall, on a certificate issued by the Registrar of Copyrights, or the Registrar of the High Court, as the case may be, deemed to be a decree of a Civil Court and shall be executable in the same manner as a decree of such Court.’

17.The purpose of issuing the certificate itself is to determine the nature of the amount payable and to facilitate the recovery of money. Once the certificate is issued quantifying the amount, then there shall be no difficulty to execute the order. Without filing an application under section 75, mere filing of the contempt petition to execute the order which has not quantified the amount, in our view is not a proper procedure. In the contempt petition, there cannot be further direction to deposit the amount when the original order itself is challenged before the Hon’ble Supreme Court and it has been numbered as civil appeal. The direction given in the contempt petition to deposit the amount would



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

virtually amount to review of the original order. In our view, such direction cannot be issued in the contempt petition.

18.The decisions cited on behalf of the respondents are not applicable to the case on hand and it is seen that the Hon'ble Supreme Court has exercised the contempt power on the ground that the parties have violated the undertaking given before the court and only in such situation, the Hon'ble Supreme Court has invoked the contempt jurisdiction.

19.No doubt, the courts have duty to issue appropriate directions for remedying or rectifying the things done in violation of the orders when there is deliberate disobedience of the order of the court. But in the case on hand, this Court does not find any willful disobedience much less willful disobedience by the appellants herein. The appellants have made the payment as per the order of the copyright board dated 25.08.2010 and appeal has been preferred before the Hon'ble Supreme Court against the order passed by the learned Single Judge in the CMAs wherein an additional amount of Rs.660/- per needle hour has been fixed.

20.In the case on hand, the learned single Judge has not quantified the amount and has only confirmed the 2% of the net advertising earnings and additionally granted minimum floor rate of Rs.660/- per needle hour which is also challenged before Hon'ble Supreme Court and the appeal

36/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

has also been numbered. At this stage, the learned Single Judge cannot direct further deposit merely on the ground that some pleadings have been made in the stay petition before the Hon'ble Supreme Court. It is normal for any person who is filing an application seeking for stay to indicate the nature of the liability he may incur if the order of the court below is not stayed. Such reflection in the affidavit in our view would not amount to admission of liability. In such view of the matter, as the order of the learned Single Judge is under challenge and is pending before the Hon'ble Supreme Court, at this stage no further addition or substitution can be done in the contempt proceedings to deposit the amount and as long as the final order has not quantified the amount and the respondents have also not filed an application for issuance of certificate under section 75 of the Copyright Act. Once such exercise has been undertaken and the amount has been finalised and the certificate has been issued, then at least, it can be said that even after such quantification of the amount, the appellant has not paid the amount and that the contempt is maintainable. Without doing so and when the amount fixed by the learned single judge is under challenge before the Hon'ble Supreme Court, it cannot be said that there is no dispute with regard to the amount to be deposited.

21.It is also to be noted that the order of the learned single Judge is only to the effect that the order of the copyright board is not binding on
37/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

the SIMCA, which means they will have to revert back to the original agreements to enforce the same as against the radio stations. Now, by way of the contempt proceedings, the SIMCA tried to enforce the contractual terms and for recovery of the amount from the date of the agreement which also in our view is not permissible in the absence of executable order. When the learned single Judge has held that the order of the copyright board is not binding on SIMCA, in such a case, the SIMCA ought to have sought for enforcement of the agreements for recovery of the amount. Without doing so, they cannot initiate contempt proceedings and seek to furnish the details of log sheet/play list, particularly when there is no specific direction in the judgment passed in the CMAs in favour of SIMCA to make any payment except saying that the order of the copyright board is not binding on SIMCA. The respondents herein ought to have filed an application for issuance of certificate, so that the amount could have been quantified and the parties could execute the order as that of the civil court decree.

22.It is to be noted that the original order does not quantify any specific money payable by the appellants and the order passed by the learned single judge fixing an amount of Rs.660/- per needle hour is presently the subject matter in the appeal before the Hon'ble Supreme Court and the appeal is pending without any order of stay. Therefore

38/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

when the exact money payable is not quantified, the non payment of unquantified money cannot constitute willful disobedience and that too when the appellants have made payment as per the order of the copyright board with regard to 2% net advertisement revenue. Therefore, the proper course for the respondents would be to seek quantification of the amount and the certificate in accordance with section 75 of the Copyright Act. Without doing so, in the contempt petitions, they cannot seek for further directions. The contempt proceedings can be initiated only when a definite sum is fixed for payment and a specific direction is issued to enforce the order and there must be willful non compliance of the said order and such non compliance must also be intentional. Therefore, the contempt jurisdiction cannot be invoked when the order is under challenge before the Hon'ble Supreme Court and once the matter is before the Hon'ble Supreme Court, the enforceability or correctness of the order will depend upon the order of the Hon'ble Supreme Court. Further, in the case on hand, it is not disputed that some payments were made by the appellants as per the copyright board order.

23.Hence, the direction issued by the learned single judge in all the matters is liable to be interfered with. Accordingly, the order dated 26.08.2025 made in Contempt Petition Nos.3238, 3239 and 3380 of 2024 and the order dated 31.07.2024 made in contempt petition Nos.2016, 39/41



L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024

2018 and 2017 of 2023 are set aside. These Letters Patent Appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

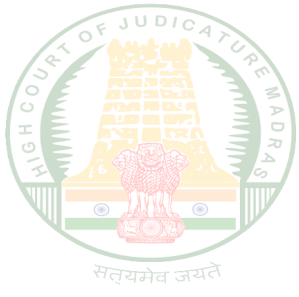
(N.S.K., J.) (M.J.R., J.)
10.12.2025

Index : Yes
Speaking Order
Neutral Citation : Yes
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N.SATHISH KUMAR, J.
and
M.JOTHIRAMAN, J.

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Common Judgment in
L.P.A.Nos.47, 48 and 49 of 2025
and 15, 16 and 17 of 2024
and
C.M.P.Nos.22810, 22857 and 22863 of 2025



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L.P.A.Nos.47, 48 and 49 of 2025 and 15, 16 and 17 of 2024
and 18316, 18364 and 18367 of 2024

10.12.2025