

**2026 LiveLaw (SC) 208**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
PRASHANT KUMAR MISHRA; J., N.V. ANJARIA; J.  
SLP (Civil) No. 20428 of 2023; 29 January, 2026  
UNITED LABOUR FEDERATION *versus* GAGANDEEP SINGH BEDI**

**Contempt of Courts Act, 1971; Section 12 & 15 - Article 215 of the Constitution of India - Doctrine of Merger - Maintainability of Contempt Petition in High Court after Supreme Court affirmation - High Court's jurisdiction to punish for contempt of its own order does not cease to operate merely because said order has been affirmed by the Supreme Court in appeal - Even if the doctrine of merger applies, the order to be executed remains the directions issued by the High Court - Held: If contempt petitions were driven to the Supreme Court in every case of affirmation by a non-speaking order, the Apex Court would be flooded with such petitions - The legal provisions cannot be used to coerce a litigant to approach the Supreme Court without resorting to filing a Contempt Petition in the High Court. [Paras 13-14]**

**Doctrine of Merger - Effect of Granting Leave - Once the Supreme Court grants leave in a Special Leave Petition and the appeal is thereafter decided, the doctrine of merger applies, whether the Supreme Court's order is one of reversal, modification, or mere affirmation - Distinguished cases where SLP is dismissed without granting leave, where no merger occurs – Appeal allowed. [Relied on *Kunhayammed & Ors. v. State of Kerala & Anr.*, (2000) 6 SCC 359; *Khoday Distilleries Limited & Ors. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Limited, Kollegal*, (2019) 4 SCC 376; Paras 11-12]**

[Arising out of impugned final judgment and order dated 28-09- 2022 in CP No. 1814/2022 passed by the High Court of Judicature at Madras]

*For Petitioner(s): Mr. V. Prakash, Sr. Adv. Ms. Adviteeya, Adv. Mr. Rakesh K. Sharma, AOR*

*For Respondent(s): Ms. Purnima Krishna, AOR Mr. M.F. Philip, Adv. Mr. Karamveer Singh Yadav, Adv. Mr. Togin M. Babichen, Adv.*

**ORDER**

1. Leave granted.

2. Assail in this appeal is to the order passed by the High Court on 28.09.2022, in Contempt Petition No. 1814 of 2022, by which the Contempt Petition preferred by the appellant has been held not maintainable in the High Court, on the ground that the order dated 24.04.2007 passed by the High Court in Writ Appeal No. 2234 of 2000, having merged in the order dated 21.11.2017 passed by the Supreme Court in Civil Appeal No. 19497 of 2017 and in Civil Appeal No. 19498 of 2017, the High Court cannot adjudicate the Contempt Petition.

3. Without entering into unnecessary details, suffice it would be to indicate that appellant had preferred a Writ Petition No. 12544 of 1999, which was taken up for hearing along with some other Writ Appeals and by common order dated 23.04.2007, the matters were disposed of by issuing certain directions. For the purpose of the present Contempt proceedings, we are concerned with direction No. 10 which is reproduced below:

*“Since the Corporation of Chennai has expressed its inability to absorb any of the employees into its services as of now, we hereby direct that in case of any vacancies lying vacant as on date with the Corporation of Chennai or which would arise hereafter, it shall strive to absorb the above said identified persons (as mentioned in clause (vi) above) into its services. In their order of seniority, before going to appoint any fresh hands.”*

4. Alleging non-compliance of the directions reproduced above, the appellant preferred Contempt Petition before the Madras High Court which has been closed without adjudicating the Contempt Petition on merits.
5. According to the High Court, once the order passed by the High Court was taken up in appeal before this Court and the Special Leave Petition was entertained and leave was granted by this Court, the Doctrine of Merger would apply. Therefore, the High Court has no jurisdiction to entertain the Contempt Petition.
6. Assailing the order passed by the High Court learned counsel for the appellant argues that the High Court has wrongly concluded that in the present case Doctrine of Merger would apply. Referring to *V. Senthur & Anr. vs. M. Vijaykumar, IAS, Secretary, Tamil Nadu Public Service Commission & Anr.*<sup>1</sup>, it is further argued that while dismissing the Civil Appeal in the present case this Court did not assign any reason over and above the reasons by the High Court, therefore the judgment of the High Court exists independent of the order passed in Civil Appeal.
7. According to learned counsel, in the absence of fresh reasons assigned by this Court there would be no merger. Thus, according to him the High Court should have entertained the Contempt Petition on merits.
8. Per contra, learned counsel for respondent would submit that once this Court granted leave and thereafter dismissed the Civil Appeal, there will be no independent existence of the order passed by the High Court and the Doctrine of Merger would be squarely applicable. Learned Counsel would refer to the law laid down by this Court in *Kunhayammed & Ors. vs. State of Kerala & Anr.*<sup>2</sup>, and *Khoday Distilleries Limited & Ors. vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Limited, Kollegal*<sup>3</sup>.
9. Having heard learned counsel for the parties and upon consideration of the material on record together with the law laid down in *V. Senthur & Anr., Kunhayammed & Ors. and Khoday Distilleries Limited & Ors. (Supra)*, we are of the considered view that the High Court ought to have entertained the Contempt Petition on merits.
10. We are not impressed with the submission made by the learned counsel for the appellant that in the present petition, the Doctrine of Merger would not apply. In *V. Senthur & Anr. (Supra)* case relied by the learned counsel for the appellant, the Special Leave Petition was disposed of without granting leave as would be clear on a reading of para Nos. 23 and 24 of the order. Thus, when the Special Leave Petition is dismissed or disposed of without granting leave there would be no application of Doctrine of Merger, even if the order is passed with reasons. This precisely is the law laid down by this Court in *Kunhayammed & Ors. (Supra)* which has been approved in a subsequent 3 judges Bench in the matter of *Khoday Distilleries Limited & Ors. (Supra)*. In *Khoday Distilleries Limited & Ors. (Supra)* this Court observed thus in paragraph Nos. 24 to 26.3:

*“24. Having noted the aforesaid two judgments and particularly the fact that the earlier judgment in Abbai Maligai Partnership Firm is duly taken cognizance of and explained in the latter judgment, we are of the view that there is no conflict insofar as ratio of the two cases is concerned. Moreover, Abbai Maligai Partnership Firm was decided on its peculiar facts, with no discussion on any principle of law, whereas Kunhayammed is an elaborate discourse based on well-accepted propositions of law which are applicable for such an issue. We are, therefore, of the view that*

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<sup>1</sup> (2022) 17 SCC 568

<sup>2</sup> (2000) 6 SCC 359

<sup>3</sup> (2019) 4 SCC 376

detailed judgment in *Kunhayammed* lays down the correct law and there is no need to refer the cases to larger Bench, as was contended by the counsel for the appellant.

25. While taking this view, we may also point out that even in *K. Rajamouli* this Court took note of both these judgments and explained the principle of *res judicata* in the following manner: (SCC p. 41, para 4)

"4. Following the decision in *Kunhayammed* we are of the view that the dismissal of the special leave petition against the main judgment of the High Court would not constitute *res judicata* when a special leave petition is filed against the order passed in the review petition provided the review petition was filed prior to filing of special leave petition against the main judgment of the High Court. The position would be different where after dismissal of the special leave petition against the main judgment a party files a review petition after a long delay on the ground that the party was prosecuting remedy by way of special leave petition. In such a situation the filing of review would be an abuse of the process of the law. We are in agreement with the view taken in *Abbai Maligai Partnership Firm* that if the High Court allows the review petition filed after the special leave petition was dismissed after condoning the delay, it would be treated as an affront to the order of the Supreme Court. But this is not the case here. In the present case, the review petition was filed well within time and since the review petition was not being decided by the High Court, the appellant filed the special leave petition against the main judgment of the High Court. We, therefore, overrule the preliminary objection of the counsel for the respondent and hold that this appeal arising out of the special leave petition is maintainable."

26. From a cumulative reading of the various judgments, we sum up the legal position as under:

26.1. The conclusions rendered by the three-Judge Bench of this Court in *Kunhayammed* and summed up in para 44 are affirmed and reiterated.

26.2. We reiterate the conclusions relevant for these cases as under: (*Kunhayammed* case, SCC p. 384)

"(iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not stand substituted 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 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 the 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 the High Court to entertain a review petition is lost thereafter as provided by sub-rule (1) of Order 47 Rule 1 CPC."

(emphasis supplied)

26.3. Once we hold that the law laid down in *Kunhayammed* is to be followed, it will not make any difference whether the review petition was filed before the filing of special leave petition or was

*filed after the dismissal of special leave petition. Such a situation is covered in para 37 of Kunhayammed case.”*

11. It is thus fairly settled that once leave to appeal has been granted and Appellate Jurisdiction of the Supreme Court has been invoked, the order passed in appeal would attract the Doctrine of Merger. The order may be of reversal, modifications or merely affirmations. Thus, the first submission made by learned counsel for the appellant is answered in negative that the Doctrine of Merger would not apply in the present case.

12. Despite the above, we are not convinced with the reasoning of the High Court that once the order passed by the High Court has merged with the order passed by the Supreme Court, the Contempt Petition would not be maintainable before the High Court, for the reason that the Contempt Jurisdiction is independent of the applicability of the Doctrine of Merger.

13. In our considered view, if the Supreme Court has not issued any fresh directions in the matter, and has merely affirmed the order passed by the High Court, what would remain to be executed is the directions issued by the High Court and it cannot be said that there is no independent existence of the order of the High Court for the purpose of invoking Contempt jurisdiction. Merely because the order has been affirmed, the High Court's jurisdiction under Section 12 or 15 of the Contempt of Courts Act, 1971 or under Article 215 of the Constitution of India does not cease to operate to punish the contemnor for disobedience of the order of the High Court. If it is held otherwise, Supreme Court would be flooded with Contempt Petitions because in whichever case the Supreme Court dismisses the appeal by non-speaking order, by merely affirming the order of the High Court, the parties would be driven to Supreme Court for filing Contempt Petition.

14. Such cannot be the intent and the legal provisions cannot be used to coerce a litigant to approach the Supreme Court without resorting to filing a Contempt Petition in the High Court.

15. In the above view of the matter, we set aside the impugned order of the High Court and restore the Contempt Petition preferred in the Madras High Court, which shall be heard and decided on its own merits.

16. It is made clear that we have not expressed any opinion on the merits of the Contempt Petition.

17. The Civil Appeal is allowed, accordingly.

18. Pending application(s), if any, shall stand disposed of.