

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2289 of 2017

Applicant :- Mansoor Khan

Opposite Party :- Smt. Aafsana Bano And Another

Counsel for Applicant :- Qazi Mohd.Ahmad

Counsel for Opposite Party :- Amar Nath Dubey

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Syed Anwar Alam, learned counsel for the petitioner.

2. This is a peculiar case wherein this Court had passed an order dated 30.03.2017 in First Appeal Defective No. 35 of 2017, on the agreement of parties, thereby they had agreed on certain terms and conditions. Their conduct was appreciated by this Court vide order dated 30.03.2017 which reads as under:

"Heard Shri Ajmal Khan, learned counsel for the appellants as well as Shri Qazi Mohd. Ahmad, learned counsel for the respondent.

There is a delay of only four days. The respondent does not have any objection, if the delay is condoned.

Accordingly, the delay is condoned.

This appeal has been filed against the order dated 21.02.2017 passed in Suit No. 21 of 2015 (Mansoor Khan Vs. Smt. Aafsana Bano and Another).

By the impugned order, the Additional Principle Judge, Family Court, Pratapgarh has given the custody of the mail child namely Mohd. Raafat aged about 10 years in the custody of the father. In one of the rare gestures, both the counsels have wisely discussed the matter and have come to an understanding on behalf of the appellants, since a proposal has been forwarded by both the counsels, we need not to go into the merits of the case.

Both the parties agreed that the child in question should study in an english medium boarding school at Pratapgarh. Both the parties have desired that they should have equal visiting rights subject to the rules of the school.

It has been agreed that the cost of the schooling and another expenses shall be borne by the father. During vacations, both the parents will have equal rights for having equal share of the vacations to be spent with each other. The court accepts it is a fair solution and without any comments on the order of the Lower Court.

The appeal is disposed of in terms of above observations. Before parting with the case, our appreciation for understanding between the parties as well as the co-operation of the learned counsels who have allowed the parties to come to an amicable solutions. We trust that both the parties will maintain the sanctity of the court's order to the best of the ability and no one will flout the spirit of the order."

3. While disposing of the aforesaid First Appeal, the Court had permitted the parties to arrive at any amicable solution. It appears that the parties could not arrive at any amicable

solution, therefore, the present contempt petition was filed on 26th of October, 2017.

4. The grievance of the petitioner is that the petitioner is not being permitted to meet his son by his own wife. Learned counsel for the petitioner has submitted that before the Division Bench of this Court, the parties had agreed to arrive at any amicable solution but no amicable solution could be arrived. He has further submitted that when the petitioner tries to meet his son, his wife does not allow him to meet his son.

5. However, learned counsel for the petitioner has fairly stated that for last couple of years, the petitioner has not contacted him, therefore he has no current instructions about the state of affairs and also as to whether the petitioner has been permitted to meet his son.

6. This contempt petition is of the year 2017. The order in the aforesaid First Appeal was passed with the consent of parties and presently the counsel is not having any instructions for couple of years, therefore, the instant contempt petition is dismissed for want of instructions.

7. Notices, if any, are discharged.

8. However, it is always open for the petitioner to take legal recourse for redressal of his grievance, if any, before the appropriate Court of law by initiating the appropriate proceedings which are permissible under the law.

[Rajesh Singh Chauhan,J.]

Order Date :- 27.10.2023

kkv/