

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****CONTEMPT PETITION NO. 59 OF 2010****IN****NOTICE OF MOTION NO. 3674 OF 2009****IN****SUMMARY SUIT NO. 2110 OF 1996**

Mrs.Prabha P. Shenai

...Petitioner / Orig.Plaintiff

vs.

Mr.M. Ramchandra Raju

...Respondent / Orig.Defendant

Mr.Prakash Shenai, Constituted Attorney of Plaintiff in person.
None for Defendant.

CORAM : S.C. GUPTE, J.**20 FEBRUARY 2015****P.C. :**

The contempt petition alleges contempt of an order dated 10 February 2010 passed by a learned Single Judge of this Court in Notice of Motion No.3674/2009 in Summary Suit No.2110/1996. The learned Single Judge of this Court by an order dated 10 March 2014 held that there was no willful breach of the order dated 10 February 2010. The learned Single Judge, accordingly, dismissed the contempt petition. The Petitioner carried the matter in an appeal before a Division Bench of this Court, which held that an appeal under Section 19 of the Contempt of Courts Act, 1971 was maintainable only against an order or decision punishing the contemnor for the contempt and not from an order declining to initiate proceedings for contempt or drop the proceedings for contempt or an order of acquittal. In view of this settled position, the appeal court held the appeal to be not maintainable and dismissed the same. Whilst the appeal was being dismissed, it was pointed out by the Petitioner to the appeal court that the contempt petition had alleged breach of not only the order dated 10 February 2010, but also three other orders. The appeal court observed that if that be so, it would be open to the Petitioner to move the learned Single Judge.

Based on these observations, it is submitted by the Petitioner, who appears in person through a constituted attorney, that this very contempt petition, i.e. Contempt Petition No.59/2010, which was disposed of, as indicated above, should be heard by this Court for contempt of the other orders. I am afraid this is not the correct way of reading the appellate order. What the appeal court has indicated is that if it is the Petitioner's case that there was a breach in respect of three other orders, it would be open to the Petitioner to adopt appropriate proceedings, including a contempt petition in respect of those three orders, before a learned Single Judge. After this was pointed out to the Petitioner, the constituted attorney of the Petitioner submitted that he would not press the present contempt petition, but would seek leave to adopt appropriate proceedings including a contempt petition in respect of the other three orders, namely, orders dated 21 March 2007, 29 August 2008 and 18 August 2009.

2 The contempt petition is, accordingly, to be treated as disposed of with liberty to the Petitioner to adopt appropriate proceedings including a contempt petition in respect of (1) order dated 21 March 2007, (2) order dated 29 August 2008 and (3) order dated 18 August 2009 in Appeal No.600/2007.

(S.C. Gupte, J.)