

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Contempt Case No.731 of 2016
& C.R.P.M.P.No.4079 of 2016

In
C.R.P.No.4802 of 2015

COMMON ORDER

The contempt case in C.C.No.731 of 2016 is filed by the petitioner in M.O.P.no.99 of 2008 on the file of the Court of the learned Principal Senior Civil Judge, Kothagudem, requesting to punish the respondents, who are judicial officers, for not deciding the said OP within the time stipulated by this Court in the orders, dated 16.11.2015, passed in C.R.P.no.4802 of 2015. The aforesaid O.P. no. 99 of 2008 was filed under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955.

2. At the stage of admission of this contempt case, the submissions of the learned counsel for the petitioner are heard. I have perused the entire material record including the report of the Registry placed on record.

3. Be it noted that the 2nd respondent, who is presently working as Additional Senior Civil Judge, Kothagudem, and who is holding Full Additional Charge of the post of the Principal Senior Civil Judge, Kothagudem, addressed a letter dated 17.03.2016 to the Registry of this Court seeking extension of time for disposal of the said OP and the said letter is registered as CRP MP.No.4079 of 2016 and is coming along with the contempt case for orders of the Court.

4. To begin with it is necessary to note the operative portion of the order, dated 16.11.2015, in C.R.P.No.4802 of 2015, which reads thus:

“Having regard to the reasons, the Civil Revision Petition is disposed of directing the Court below to complete the exercise of recording further deposition of the recalled witness/ witnesses within a period of two (02) weeks from the date of receipt of a copy of this order and further dispose of the interlocutory applications pending, if any, in case the disposal of such pending applications is necessary before

taking up the main case for arguments and then decide the main case on merits and in accordance with the procedure established by law, within a period of two (02) months thereafter and preferably before 31.01.2016. There shall be no order as to costs.”

5. Learned counsel for the petitioner would submit that despite the afore mentioned orders of this Court, neither the 1st respondent nor the 2nd respondent disposed of the OP within the time stipulated by this Court and that therefore, they are liable for contempt.

6. At the outset, it is to be noted that the 1st respondent, who was formerly the Principal Senior Civil Judge, Kothagudem, is presently working as Additional District Judge elsewhere on her promotion as Additional District Judge. The 2nd respondent is working as the Additional Senior Civil Judge of the Court at Kothagudem and is holding Full Additional Charge of the post of the Principal Senior Civil Judge, Kothagudem.

7. It is fairly submitted that the 2nd respondent addressed a letter to the Registry of this Court offering his explanation for non disposal of the O.P within the time stipulated in the orders in the C.R.P and requested for extension of time for disposal of the said O.P and that the said letter was registered as a C.R.P.M.P.No.2670 of 2016 and that the said M.P was allowed and extension of time was granted after due consideration of the explanation of the learned Officer. Therefore, the explanation of the said Officer concerned for not disposing of the O.P within the time stipulated in the orders of this Court is already accepted by this Court while disposing of the said M.P. It is trite to note that this Court in C.R.P.M.P.No.2670 of 2016, vide orders dated 22.04.2016, extended time by two months, from the date of receipt of a copy of the said order, for disposal of the aforementioned HMOP.

8. Further, insofar as the pending CRPMP No.4079 of 2016, it is to be noted that having regard to the explanation of the 2nd respondent and the peculiar

facts of the matter, this Court is inclined to grant further time for disposal of the O.P by the trial Court.

9. In the light of the aforesaid facts and for the reasons assigned infra, this Court is of the view that no action for contempt need be initiated and/ or taken against the respondents/ judicial officers.

10. It is fairly conceded by the learned counsel for the petitioner and it is borne out by the record that prior to the 2nd respondent assuming Full Additional Charge of the post of the Principal Senior Civil Judge, Kothagudem, the learned counsel for the petitioner in the HMOP filed an interlocutory application in I.A.No.92 of 2016 under Section 151 of the Code of Civil Procedure to reopen the evidence and also another interlocutory application in I.A.No.93 of 2016 requesting to eschew the cross examination of DW3 and that the said petitions were pending for quite some time. Thus, the petitioner having filed the said interlocutory applications had contributed to the delay in disposal of the O.P and was thus squarely responsible for the non-disposal of the O.P by the trial Court. Further, after the said interlocutory petitions were disposed of on 21.04.2016, the case was adjourned to 29.04.2016 for hearing arguments. Earlier to the above said date and also thereafter, the advocates at Khammam abstained from Court work and therefore, the O.P could not be taken up for expeditious disposal, is not in dispute. It is an acknowledged fact that a large section of members of the Bar of Khammam District caused hindrance to the Court work and smooth functioning of the Courts on some days by raising slogans and by boycotting the Courts even without prior intimation and further abstained from Court work on several days by giving prior intimation to the judicial officers presiding over the Courts. During the year 2015, the Courts were boycotted on 22.06.2015, 28.7.2015, 15.9.2015, 09.11.2015, 27.11.2015 and during the year 2016, the courts were boycotted on 04.01.2016, 10.05.2016, 31.5.2016 and 05.08.2016 is not in dispute. It is also

to be noted that from 06.06.2016 to 30.07.2016 advocates abstained from attending to the Courts in Khammam District. During any such days of boycott of Courts by the advocates, the petitioner did not appear before the Court in person and make a request to the Court to allow him to withdraw the vakalat given to his counsel and permit him to personally prosecute his case. The respondent also failed to do so. Therefore, the petitioner as well as his learned counsel and the opposite party and his learned counsel are evenly responsible for the non-disposal of the OP by the Presiding Officers of the Court, that is, the respondents 1 and 2, within the time stipulated in the orders of this Court or within the extended time. On an earnest consideration of the facts and circumstances, this Court is of the considered view that the petitioner failed to either produce any material or establish that the non-disposal of the HMOP by the learned Presiding Officers of the Court of the Principal Senior Civil Judge, Kothagudem is on account of their wilful and deliberate conduct. Hence, it follows that not even a *prima facie* case, leave alone, a case of required standard is made out. On the above analysis, this Court is of the view that the contempt case is utterly misconceived and deserves to be dismissed.

11. In the result, the Contempt Case is dismissed. CRPMP No.4079 of 2016 is allowed accordingly directing the learned Principal Senior Civil Judge, Kothagudem, or the Officer placed in charge of the said post, as the case may be, to dispose of the MOP, if not already disposed of, as expeditiously as possible and preferably within two months from the date of receipt of a copy of this order, subject, however, to the cooperation of the parties to the *lis* and their learned counsel.

There shall be no order as to costs in the contempt case.

C.A.No.511 of 2016 filed for impleadment of respondent in the HMOP as party to this contempt case shall also stand dismissed, in view of the observations in this order and in the light of these final orders.

17th September, 2016
RAR

M. SEETHARAMA MURTI, J

