

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.2515 of 2013

ORDER :

This Revision is filed challenging the order dt.11.03.2013 in I.A.No.385 of 2011 in O.P.No.1411 of 2010.

2. The petitioner herein had filed the O.P.No.1411 of 2010 before the Judge, Additional Family Court, at Hyderabad seeking custody and visitation rights to his children born to respondent.

3. There was an order passed on 20.01.2011 in I.A.No.1 of 2011 directing respondent to produce the children at Mecca Masjid, but the respondent had filed I.A.No.372 of 2011 on 21.01.2011 seeking modification of the said order on the ground that it was not convenient for her to produce the children in that place. That application appears to have been allowed on 06.06.2011 directing the respondent to produce the children at NTR Park. In the mean time, the respondent did not produce the children on 23.01.2011, 27.02.2011 and 27.03.2011, taking the pretext that she had filed I.A.No.372 of 2011 to modify the order dt.20.01.2011 in I.A.No.1 of 2011.

4. So the petitioner filed I.A.No.385 of 2011 under Order 39 Rule 2A C.P.C. to detain and send the

respondent to civil prison for violating the order dt.20.01.2011 in I.A.No.1 of 2011.

5. By order dt.11.03.2013, the Court below dismissed the said I.A. It held that the respondent had immediately filed I.A.No.372 of 2011 on 21.01.2011 for modification of the order dt.20.01.2011 in I.A.No.1 of 2011. Therefore, it cannot be said that the respondent had violated the orders passed by the Court and so the request of petitioner to punish the respondent for violation of the said order cannot be considered.

6. Questioning the same, the present Revision is filed.

7. The party-in-person/petitioner would contend that he was denied visitation rights deliberately by respondent on the pretext that her application for modification of the order dt.20.01.2011 in I.A.No.1 of 2011 was pending; that the Court below at least should have compensated him in some other manner by providing for visitation at some other place in the mean time; and being the father, he has been deprived of an opportunity to spend time with his children, which is his natural right.

8. It is no doubt true that petitioner is the father of children and had a right to visit the children as per the order dt.20.01.2011 in I.A.No.1 of 2011. Unfortunately, the respondent did not comply with the said order on the

ground that she had filed an application on 21.01.2011 in I.A.No.372 of 2011. Merely, because she filed such an application the court below could not have allowed her to violate order in I.A.No.1 of 2011, because I.A.No.372 of 2011 came to be decided on 06.06.2011, long after it was filed.

9. Be that as it may, since it is now stated by petitioner that the OP itself was disposed of in June, 2013 giving him partial visitation rights, that his two daughters have now become majors and are pursuing higher education and he is also given temporary custody of his minor son, at this point of time I am of the opinion that it may not be proper to punish respondent for violation of the order dt.20.01.2011 in I.A.No.1 of 2011. Therefore, I do not wish to interfere with the order passed by the Court below in exercise of the power of this Court under Article 227 of the Constitution of India. Therefore, the Revision fails and is accordingly dismissed. No order as to costs.

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-06-2015

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