

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SATHYANARAYANAN

Contempt Appeal No.1 of 2016

Bhuvaneswari Calambakkam
AK56/1 Guru Nivas Grd Flr,
10th Main Road, Annanagar,
Chennai.

.. Appellant / Petitioner

-vs-

B.Nagendran

.. Respondent / Respondent

Appeal filed under Clause 19 of the Contempt of Courts Act,
against the Judgment and Order dated 05.01.2015 passed in
Contempt Petition No.3411 of 2014 on the file of this Court.

For Appellant : M/s.Bhuvaneswari Calambakkam
Party-in-person

For Respondent : Mr.P.Ravishankar Rao

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief
Justice)

The appellant is aggrieved by the rejection of the contempt petition alleging contempt of the order dated 26.03.2013 passed by the learned Single Judge in C.R.P. (PD) No.42 of 2013. The operative portion of the order dated 26.03.2013 has been reproduced in the impugned order dated 05.01.2015 dismissing the contempt petition. This shows that the only subject dealt with in the order of which contempt is alleged relates to the issue of maintenance. The appellant sought to raise the issue of custody of the children. In fact, one of the children is already a major while the other is around 16 years and we are informed by the learned counsel for the respondent that the endeavour of the appellant through a Habeas Corpus Petition being H.C.P.No.1012 of 2015 post notice has resulted in the dismissal order dated 17.06.2015. Thus, the learned Single Judge, in the impugned

order, has opined that only the issue of payment of interim maintenance and litigation expenses are subject matter of the order of which contempt is alleged. In that behalf, the learned Single Judge has opined that if it is so, the appellant can work out her remedies but not through the contempt petition.

2.The grievance, thus, made before us is only qua the dismissal of the contempt petition and not qua any other subject matter. It is the contention of the appellant that there are other proceedings including contempt proceedings pending before another Bench.

3.On having heard the appellant, we are of the view that the aforesaid fact really has no impact on the present proceedings inasmuch as the appeal itself is not maintainable being directed against the rejection of the contempt petition. We are of the view that the matter is squarely covered against the appellant in view of the judgment of the Hon'ble Supreme Court in *Midnapore Peoples' Co-op. Bank Ltd. vs. Chunilal Nanda and Others*, (2006) 5 SCC 399 and the same issue has been examined by a Division Bench of this Court in *Cont.A.Nos.SR 69504 and 4178 of 2015* (between *R.Murugesan vs. P.Chelladurai*) decided on 01.09.2015.

4.We may note the submission of the learned counsel for the respondent that the appellant has also taken recourse to file a contempt petition before the Family Court regarding the same cause of action, though the appellant appearing in person states that on re-visiting the issue, she feels, that petition is not maintainable and she has taken legal assistance in that behalf qua that pending application.

5.It is not as if the appellant is remediless but the remedy is not what the appellant seeks before us.

6.Contempt Appeal is, accordingly, dismissed as not maintainable with liberty to the appellant to take recourse in accordance with law, if so advised, against the impugned order.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

sra

To

The Section Officer
Contempt Section,
Original Side
High Court, Madras

Cont.A.No.1 of 2016

TEJ (CO)
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