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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CONT.CAS(C) 872/2014 and C.M. 10139/2016

MANOJ KUMAR

..... Petitioner

Through: Mr. S.C. Sagar and Mr. Ravindra
Kumar, Advocates

versus

VEENA @ SIMRAN

..... Respondent

Through: Mr. Vishesh Wadhwa, Advocate

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **18.03.2016**

1. The petitioner has filed this contempt petition for violation of the settlement term in so far the respondent had agreed to withdraw the suit filed by her against the petitioner.

2. Learned counsel for the respondent submits that the petitioner had undertaken in the settlement to bear the school expenses of the children which is clearly recorded in the petitioner's statement at page 27. It is submitted that the petitioner has till date not paid a single penny towards the school and other expenses which accumulated to the tune of Rs.6,77,195/- as per the details given in the affidavit dated 14th March, 2016. It is submitted that the respondent has challenged the settlement on various grounds, inter alia, the violation of the settlement. It is further submitted that the contempt petition is not maintainable as the petitioner himself is in violation of the settlement.

3. Learned counsel for the petitioner submits that the petitioner is paying maintenance of Rs.14,000/- to the respondent. Learned counsel, however,

concedes that the petitioner has not paid the school and other expenses as undertaken by him in the settlement. Learned counsel submits that the petitioner has not paid the school and other expenses as the respondent did not withdraw the suit.

4. In the facts and circumstances of this case, this Court is of the view that since the petitioner is in default by not making payment of school and other expenses in terms of the settlement which are accumulated to the tune of Rs.6,77,195/-, the non-withdrawal of the suit by the respondent cannot be said to be wilful and deliberate and, therefore, no contempt is made out.

5. The contempt petition is dismissed and the notice against the respondent is discharged.

6. Learned counsels for the parties submit that the respondent has filed execution petition against the petitioner for claiming the school and other expenses and is also pursuing the suit for declaration and other reliefs of the properties and the petitioner is contesting both the proceedings.

7. It is clarified that the Courts concerned shall consider the contentions of both the parties in accordance with law and nothing stating herein shall be treated as a final expression on the merits of the cases.

8. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

9. All the pending applications are disposed of.

J.R. MIDHA, J.

MARCH 18, 2016

rsk