

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 862/2015
SHAURYA SHANDILYA Petitioner
Through : Mr. N. Prabhaker and Mr. Dhruv
Sharma, Advs.
versus

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

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A perusal of order dated 30th June, 2015 passed in CM(M) No.546/2015 shows that primary grievance raised by the petitioner during the hearing, was that despite the order dated 13th October, 2014 passed in CM(M) No.918/2014, Family Court had not made sincere efforts to decide the applications, that is, Annexure P-5, P-8 & P-13. CM(M) No.546/2015 was disposed of with the directions to the Principal Judge to first hear the arguments on the application under Section 24 of the Hindu Marriage Act of the respondent and thereafter, to proceed to hear the arguments on the applications preferred by the petitioner. It is also noted in the order thus: “it

is hoped all these applications shall be heard and disposed of within the next two months”.

Subsequently, petitioner filed CM No.12347/2015 in the disposed of matter seeking modification of the order dated 30th June, 2015. While disposing of the said application, learned Judge clarified, thus: “it is made clear that order encompasses all pending applications and not just the applications mentioned in Annexures P-5, P-8 & P-13 of the petition.”

Thereafter, petitioner approached this Court by way of present petition alleging therein that the Family Court has not disposed of several applications preferred by the petitioner in terms of order passed by this Court in CM (M) No.918/2014 vide order dated 13th October, 2014 and in CM (M) No.546/2015 vide orders dated 30th June, 2015 and 17th July, 2015. It may, however, be noted that as on the date of filing of present petition, Family Court had already disposed of the application under Section 24 of the Hindu Marriage Act vide order dated 12th October, 2015 of the respondent.

Vide order dated 29th October, 2015, passed in this petition, it was ordered that the Principal Judge, Family Court shall mark the matter to another Judge. Concerned family Judge was also directed to show cause as

to why appropriate action be not initiated against him both under the Contempt of Courts Act, as well as on the Administrative Side for non compliance of aforesaid orders.

Reply has been received from the concerned Judge, Family Court and has been perused. Reply has already been filed by the respondent. According to the respondent, orders dated 30th June, 2015 and 17th July, 2015 have not been violated. In his reply, concerned Judge has explained his position by giving details of the proceedings conducted by him after taking over as Family Judge. I have perused the reply and am satisfied with the explanations rendered by the concerned Family Judge and I do not find any wilful disobedience of orders dated 30th June, 2015 and 17th July, 2015 on the part of the Family Judge. I am satisfied with the explanations rendered by the learned Family Judge.

It appears that as on 17th July, 2015, eleven applications were pending before the Family Judge. Details of such applications have been mentioned in Annexure-A to the reply of the respondent. Except one application under Section 26 of the Hindu Marriage Act seeking custody of the child filed by the petitioner, all other applications appear to be either for modification of the order regarding visitation rights or for preponement of dates of hearing.

During the course of hearing, it has emerged that petitioner had also filed a contempt case bearing Cont. CAS(C) No.441/2015 in this Court regarding the visitation rights. The said contempt petition was filed in the month of May, 2015. Orders were passed in the said contempt petition from time to time regarding visitation rights of the parties. Order dated 11th September, 2015 passed in the contempt case makes it clear that petitioner had assured and undertaken in the Court that he would not file any complaint or petition with regard to anything that transpires during the visitation without taking leave of the Court. It may further be noted that during the pendency of the contempt petition, orders regarding visitation rights were passed, thus, Family Court Judge otherwise, could not have passed orders concerning the visitation rights and custody of the child. While disposing of the contempt case, Family Judge has now been directed to dispose of the application under Section 26 of the Hindu Marriage Act.

In the light of above discussions, show cause noticee is discharged.

No further orders are required to be passed in this petition. Petition is disposed of.

A.K. PATHAK, J.

MARCH 09, 2016/dk