

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION (ST) NO.3318 OF 2017

Miraaj Oberoi
(Earlier Known as Hemal Vora) ..Petitioner
V/s.
Mrs.Dhruti Hemal Vora & Ors. ..Respondents

Mr.Miraaj Oberoi Petitioner present in person.

CORAM : M. S. SONAK, J.

DATE : 15 FEBRUARY 2017.

P.C.

1. Heard Miraaj Oberoi the petitioner in person.
2. He submits that his wife i.e. respondent No.1 has disobeyed the order dated 16 April 2016 made by the Additional Chief Metropolitan Magistrate, 4th Court, Girgaon, Mumbai in the proceedings under the 'Protection of Women From Domestic Violence Act' 2005 (the said act).
3. The operative portion of the order dated 16 April 2016, directs the respondent No.1 to grant access of child Aarya to the petitioner on every Sunday 4.00 pm to 7.00 pm.
4. Mr.Miraaj Oberoi complains that he has been denied such access. He points out that his grand father is 92 years of age and on account of the respondent No.1 not complying with the

access order, even the grandfather, is unable to meet or interact with Aarya. Mr.Miraaj Oberoi points out that on 2 May 2016 and thereafter on 06 June 2016, he has made applications to the learned Metropolitan Magistrate complaining about the disobedience of the order dated 16 April 2016. He however, respectfully but regretfully complains that no orders have been made on these two applications. As a result, despite having the order in his favour, he is being deprived from access to his child Aarya.

5. At this stage, it is not necessary to deal with the matter in exercise of the contempt jurisdiction. However, the applications made by Mr.Miraaj Oberoi have to be disposed of one way or the other, because he complains that the order dated 16 April 2016 made by the learned Metropolitan Magistrate is not complied with by the respondent No.1. He also states that the other respondents to this petition are assisting the respondent No.1 to disobey the order dated 16 April 2016. At this stage, however, it is too premature for this Court to go into all such allegations. However, Mr.Miraaj Oberoi is right that at least, the Metropolitan Magistrate has to look into the grievance raised by him in the application dated 2 May 2016 and 06 June 2016 and take some decision thereon, one way or other expeditiously.

6. Accordingly, the learned Metropolitan Magistrate taking up the domestic violence case instituted by the respondent no.1 is directed to dispose of the petitioner's application dated 02 May 2016 and 06 June 2016, for alleged disobedience by respondent no.1 of the order dated 16-04-2016, as expeditiously as possible and in any case, within a period of one month from the date

of production of the authenticated copy of this order.

7. Once an order has been made by the learned Metropolitan Magistrate on 16-04-2016, it is the duty of learned Metropolitan Magistrate to ensure that such order is obeyed by the parties upon whom such order is binding unless, of course, such order has been set aside by any Superior Court. At the same time, since this is a matter of custody of the minor child of 3 years, all factors have to be considered with a great degree of sensitivity. It is for these reasons that the learned Metropolitan Magistrate is directed to dispose of the application dated 02-05-2016 and 06-06-2016 as expeditiously as possible and in any case, within a period of one month from the date of production of the authenticated copy of this order. Petition is disposed of.

8. All concerned to act on the basis of the authenticated copy of this order.

(M. S. SONAK, J.)