

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.8.2017

CORAM

**THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

Contempt Petition No.875 of 2017

Mrs.Parvathy

Petitioner

Versus

Shanmugam @ Ramasamy

Respondent

Prayer: Contempt Petition filed under Section 10 of Contempts of Courts Act, 1971 to punish the Respondents herein for contempt of Court for wilful disobedience of the order dated 22.12.2016 in I.A.No.410 of 2016 in O.S.No.100 of 2016 on the file of the Principal District Munsif Court, Vanur, Villupuram District.

For petitioner

: Mr.R.Rajarajan

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ORDER

(Order of the court was made by HULUVADI G.RAMESH,J.)

Heard the learned counsel appearing petitioner.

2. The present contempt petition is filed for disobedience of the interlocutory order passed by the Civil Court.

3. In a similar situation, a Division Bench of this court by order dated 15.2.2006 in Contempt Petition No.117 of 2006 has held that in respect of violation of the interim order of the City Civil Court remedy is open not by way of filing contempt petition before the High Court, rather before the City Civil Court for violation of Order XXXIX Rule 2A of the Code of Civil Procedure.

4. Order XXXIX Rule 2A deals with consequence of disobedience or breach of injunction and it contemplates that in the case of disobedience of any injunction granted or other order made under Rule 1 or Rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison and Order XXXIX Rule 2A even contemplates the order of attachment of the property.

5. The Division Bench has held that unless it is demonstrated that the remedy provided is not effective and further depending upon the nature of injury, its seriousness and the threat it created to the enforcement of the order of the Court, and the public interest of the administration of justice which has been affected is so large that it requires the consideration of the High Court to exercise its inherent power and the court will be circumspect to invoke the jurisdiction, save and except in special and extraordinary circumstances and such a reason has been endorsed by a Full Bench of this

Court in the decision reported in VIDYA CHARAN SHUKLA v. TAMIL NADU OLYMPIC ASSOCIATION (AIR 1991 MADRAS 323). It has further held that there is adequate remedy available under Order XXXIX Rule 2A as such it will not be advisable for this court to exercise its extraordinary jurisdiction and proceed under Section 10 read with Section 12 of the Contempt of Courts Act and interfere with the proceedings of the Trial Court, particularly when the suit is pending and the issues are at large before the Civil Court.

6. The view taken by the Division Bench squarely applies to the present case and therefore, it is for the petitioner to file an application under Order XXXIX Rule 2A and in such event, it is for the Civil Court to consider the same in accordance with law and pass orders. Accordingly, this contempt petition is closed.

(H.G.R.,J.)(G.J.,J.)

16.8.2017.

Index:Yes
Internet:Yes
ssk.

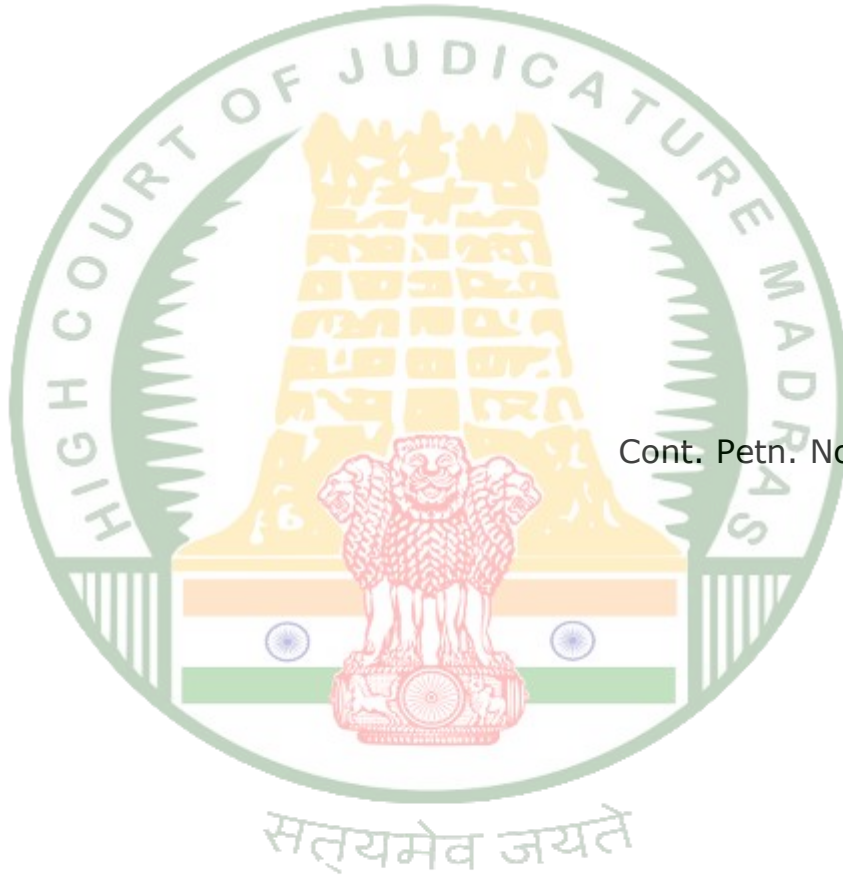
To

The Principal District Munsif Court,
Vanur, Villupuram District.

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**HULUVADI G. RAMESH, J.
AND
G.JAYACHANDRAN, J.**

ssk.



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