

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Contempt Appeal No.8 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard the learned Advocate General appearing on behalf of the appellant (respondent in C.C. No. 1192 of 2017), Smt. P.Vijaya Lakshmi, learned counsel for the contempt petitioner, and, with their consent, the Contempt Appeal is disposed of at the stage of admission.

Alleging willful and deliberate violation of the order passed in W.P. No. 16944 of 2017 dated 11.5.2017, the respondent herein filed C.C. No. 1192 of 2017. When the Contempt Case came up for admission before him on 4.4.2018, the learned Single Judge passed the following order:-

“.... The excuse offered by the respondent in the additional counter-affidavit is that the seigniorage fee has not been paid by the petitioner. Prima facie, the said stand taken by the respondent is nothing but a clear defiance of the order of this Court.

Issue notice in Form-I to the respondent for 08.06.2018.

As there is prima facie violation of the order of this Court, the respondent is given an opportunity to file an affidavit with respect to the quantum of punishment that may be imposed on him, under the Contempt of Courts Act, 1971.

Post on 08-06.2018.”

Admission of a Contempt Case, and Notice in Form No.I being issued to the alleged contemnor on a prima facie case of contempt being made out, is within the discretion of the learned Single Judge and, ordinarily, the appellate Court, in the exercise of its jurisdiction under Section 19 of the Contempt of Courts Act, 1971 (hereinafter referred to as “the Act”), would not interfere as it is always open to the respondent-

contemnor to appear before the learned Single Judge, and satisfy him that the order, violation of which is alleged in the Contempt Case, has in fact not been violated or such violation is not willful and deliberate. In the present case, however, the learned Single Judge recorded his, *prima facie*, satisfaction that the order of the Court was violated and granted an opportunity to the appellant (respondent-contemnor) to file an affidavit with respect to the quantum of punishment that may be imposed on him under the Act.

The learned Single Judge has not recorded even his *prima facie* satisfaction that violation of the order, in W.P. No. 16944 of 2017 dated 11.5.2017, was willful or deliberate. It is only if the learned Single Judge assigns reasons for his satisfaction that violation of the order is willful and deliberate, after considering the averments in the counter-affidavit, would he then be entitled to decide on the nature and quantum of punishment to be imposed for such willful and deliberate violation of the order of the Court. The second last paragraph of the order of the learned Single Judge reads thus:

“..... As there is *prima facie* violation of the order of this Court, the respondent is given an opportunity to file an affidavit with respect to the quantum of punishment that may be imposed on him, under the Contempt of Courts Act, 1971.”

The aforesaid para does not reflect the satisfaction of the Learned Single Judge that violation of the order in W.P. No. 16944 of 2017 dated 11-5-2017 is willful and deliberate. While setting aside the second last paragraph of the order, we make it clear that we have not interfered with the order of the learned Single Judge to the extent he admitted the Contempt Case and issued notice in Form No.1.

Learned Advocate General would submit that, since the appellant has already filed a petition to vacate the interim order passed in the

Writ Petition much prior to the Contempt Case having been filed, the learned Single Judge should be directed to hear both the vacate stay petition and the Contempt Case together. While it may not be proper for us to decide on how the learned Single Judge should regulate his board, we have no doubt that, on such a request being made by the learned Advocate General, the learned Single Judge would consider taking up both the vacate stay petition and the Contempt Case together.

The Contempt Appeal is, accordingly, disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

25th April, 2018

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**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
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Date:25.04.2018

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