

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND THE STATE OF  
ANDHRA PRADESH**

**THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

**and**

**THE HON'BLE MS JUSTICE J. UMA DEVI**

**Writ Petition No.22503 of 2018**

Between:

Palle Deepthi @ R. Nageshwari, W/o Palle  
Someshswara Reddy, aged 43 years, House wife,  
R/o Nellutla village, Ligala Ghanpur Mandal,  
Warangal District, Telangana.

... Petitioner

Vs.

The Registrar (Judicial), High Court of Judicature  
At Hyderabad for the State of Telangana and the  
State of Andhra Pradesh and 2 others

.. Respondents

For Appellant : Dr. Venkat Reddy Donthi Reddy

For Respondents : Mr. Gadi Praveen Kumar  
Smt. V. Uma Devi

**HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN**

**AND**

**HON'BLE MS. JUSTICE J. UMA DEVI**

**Writ Petition No.22503 of 2018**

**ORDER: (V. Ramasubramanian, J)**

Challenging a notice to show cause notice issued by the Judicial Magistrate of First Class, Jangaon, under Rule 9 (4) read with Rule 5 of the Contempt of Courts (Andhra Pradesh High Court Rules, 1980), the petitioner has come up with the above writ petition.

2. Heard Dr. Venkat Reddy Donthi Reddy, learned counsel for the petitioner and Mr. Gadi Praveen Kumar, learned counsel appearing for the 3<sup>rd</sup> respondent.

3. The petitioner is the lawfully wedded wife of the 3<sup>rd</sup> respondent herein. The marriage was solemnized in the year 1994. The couple have a daughter, who is now 23 years of age and who is now undergoing B.Sc. (Micro Biology) in Reddy Women's College, Narayanaguda, Hyderabad.

4. On account of the disputes between the petitioner and the 3<sup>rd</sup> respondent, a petition for divorce was filed by the husband in O.P.No.1561 of 2015. The petitioner/wife filed an application in O.P.No.2 of 2016 for restitution of conjugal rights.

5. During the pendency of those proceedings, the wife moved the Court of Judicial Magistrate of First Class, Jangoan, under the provisions of the Protection of Women from Domestic Violence Act, 2005 in D.V.C.No.4 of 2017. The reliefs sought by the petitioner included residential order, monetary order and other reliefs. Initially,

the Court granted an injunction restraining the 3<sup>rd</sup> respondent from evicting the petitioner from the shared household. Subsequently, by an order dated 15-09-2017, the husband was directed to provide alternative accommodation to the petitioner/wife at Nellutla village. The 3<sup>rd</sup> respondent/husband was also directed to pay one year advance rent for the alternative accommodation. The petitioner was directed to vacate the premises, upon an alternative accommodation being provided.

6. Contending that he located an alternative accommodation and that still the petitioner/wife did not move out of the matrimonial home, thereby committing Contempt of Court, the husband moved an application in Crl.M.P.No.392 of 2018. On the said application, the Court below ordered notice to the petitioner under Rule 9 (1) read with Rule 5 of Contempt of Courts (Andhra Pradesh High Court Rules, 1980). Challenging the said notice, the petitioner/wife is before this Court.

7. At the outset, it should be pointed out that the Court below does not have the power to punish a person for contempt. The rules invoked by the Court below govern the proceedings under the Contempt of Courts Act, 1971 before the High Court. The subordinate courts do not have such power. Therefore, the writ petition deserves to be allowed.

8. But the same does not resolve the issue. Therefore, in order to find out how best the order passed under the Protection of Women from Domestic Violence Act can be given effect to, we directed the parties to appear before us in the chamber. The

attempts to bring about a reproach, failed. Therefore, we had to look for other alternatives.

9. It is admitted on both sides that the husband is now paying a monthly maintenance of Rs.4,000/- to the wife and the wife is staying in the matrimonial home, which is shared by the parents of the husband also. But the same is leading to friction. It is also admitted that the daughter, who is now studying in college, has to pay hostel fee to the tune of Rs.6,000/- per month. The 3<sup>rd</sup> respondent/husband has not been paying the same so far. It is claimed that the petitioner-wife is actually taking upon herself the burden. Therefore, the 3<sup>rd</sup> respondent cannot have the luxury of asking the petitioner to reside elsewhere without addressing the issue of how to take care of the interest of the daughter also. After discussion with the parties, we thought that the best method of resolving the problem would be to direct the 3<sup>rd</sup> respondent to take care of the expenses of the daughter and pay a fixed amount to the wife, if he wants the petitioner-wife to leave out of the matrimonial home. The suggestions made by us were accepted.

Therefore, the writ petition is allowed, the impugned show cause notice is set aside and the following order is passed in supersession of the orders passed by the 2<sup>nd</sup> respondent-Court:

- 1) henceforth the 3<sup>rd</sup> respondent shall directly pay to the daughter or to the hostel authorities/college authorities, where his daughter is studying, the monthly amounts payable towards hostel fee and towards any other fee to be paid to the college;

- 2) the 3<sup>rd</sup> respondent shall pay to the petitioner a sum of Rs.6,000/- per month, which includes the maintenance already ordered by the 2<sup>nd</sup> respondent-Court; and
- 3) the petitioner-wife shall locate a house of her choice and move out of the matrimonial home, within a period of two (2) months from the date of receipt of a copy of this order.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

**V. RAMASUBRAMANIAN, J**

**J. UMA DEVI, J**

Date: 06-09-2018

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