

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CONTEMPT CASE No.20 of 2017

ORDER:

This contempt case, under Sections 10 to 12 of the Contempt of Courts Act, 1971, is filed by the petitioner in CRP.no.2641 of 2015 requesting to summon, try and punish the respondent for wilful violation of the orders of this Court, dated 25.04.2016, in the afore-stated civil revision petition.

2. I have heard the submissions of Sri *M.A.V.S.Bhagavan*, learned counsel appearing for the petitioner; and of Sri *N.V.Anantha Krishna*, learned counsel appearing for the respondent. I have perused the material record.

3. The case of the petitioner, as stated in her affidavit, in brief, is as follows: 'The respondent has wilfully failed to pay the arrears of maintenance amount in a sum of Rs.1,50,000/-. He is not paying maintenance amount @ Rs.8,000/- per month. He is not paying the said arrears and monthly maintenance, even though he is having necessary means and is drawing a monthly pension of nearly Rs.30,000/-. The order of this Court in the afore-stated civil revision petition has become final. The present contempt case is filed as the respondent has committed contempt by wilfully disobeying the order of this Court. Further, in these days of escalating prices, the petitioner is finding it difficult to survive. Hence, the Sub-Treasury Officer, Sub-Treasury Office, Narsipatnam, Visakhapatnam, who is the Pension Disbursing Officer of the respondent, may be directed to deduct a sum of Rs.20,000/- every month from the monthly pension of the respondent till the entire arrears of maintenance are

recovered. The said officer may be further directed to remit, in future, Rs.8,000/- per month to the SB Account of the petitioner, the details of which are mentioned in the affidavit.'

4. The case of the respondent is this: 'By the orders, which are passed in the afore-stated civil revision petition, this Court while allowing the CRP modified the orders of the Court below passed in IA.no.511 of 2012 in HMOP.no.193 of 1980. The order is an executable order. Hence, the petitioner is bound by law to seek execution of the order by filing an execution petition. The contempt petition is not maintainable. The contempt case is filed only to harass this respondent and subject him to grave and irreparable loss. Hence, the contempt case may be dismissed.'

5. Before proceeding further, it is necessary to note the operative portion of the order of this Court in the afore-stated CRP, which reads as under:

"In the result, the Civil Revision Petition is allowed and the order impugned is set aside. As a sequel, IA.no.511 of 2012 in HMOP.no.193 of 1980 is allowed in part without costs awarding enhanced maintenance @ Rs.8,000/- per month from 01.07.2014 keeping in view the interests of both the parties. The respondent is granted a time of eight weeks from the date of the receipt of a copy of this order to pay the arrears of the enhanced maintenance amount upto date i.e., upto the end of May, 2016 at the enhanced rate and as directed in these orders. It is made clear that the amount already paid shall be given credit while arriving at the arrears of maintenance. It is needless to mention that the respondent shall continue to pay to the petitioner regularly the future maintenance amounts, at the enhanced rate, which may successively fall due."

6. During the course of hearing, it is stated that the petitioner is a maintenance holder and that the respondent, who is her husband, is a pensioner. It is fairly stated that already an execution petition in

EP(SR).no.2657 of 2016 is filed by the petitioner herein, on the file of the learned III Additional Senior Civil Judge, Kakinada, seeking attachment of the pension payable to the respondent *inter alia* stating that this Court allowed the civil revision petition (subject civil revision petition) by the order, dated 25.04.2016. It is fairly stated that the said Court by its order, dated 16.09.2016, ordered for attachment of the pension of the respondent after having rejected the contentions of the respondent herein.

7. In view of the fact that already an execution petition is filed seeking implementation of the orders of this Court and that in that execution petition, an appropriate order of attachment of the pension payable to the respondent is already passed after overruling the objections in the counter of the respondent, and as the said Court, which is executing the orders, is having seisin over the matter, this Court is of the considered view that this contempt, which is a parallel proceeding, need not be entertained.

8. On the above analysis, this Court finds that the contempt case is liable for dismissal as not maintainable, leaving it open to the petitioner to prosecute the execution petition, which is already filed by her before the Court below.

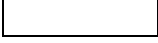
9. In the result, the Contempt Case is dismissed.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M.SEETHARAMA MURTI, J

26th September, 2018
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THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI



CONTEMPT CASE No.20 of 2017

Date: 26th September, 2018

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