

Apurva Vishnu Tambe	...	Petitioner
versus		
Vishnu Babu Tambe and Anr.	...	Respondents

Mr. Abhishek Deshmukh, for Petitioner.
Mr. Jaydev Trivedi with Ms. Manisha Prajapati, for Respondent No.1.
Ms. S.I.Shah, for Respondent No.2.
Mr. Vishnu Babu Tambe, Respondent No.1 husband present.

**CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

DATE: 26th JULY, 2019

1. This Contempt Petition is taken out by the wife alleging gross and willful disregard of various orders passed by this Court as well as undertakings given by the Respondent No.1 Husband. The Record would show that under an order dated 10th July, 2017 passed by this Court, the Respondent No.1 had to pay a sum of Rs.15,000/- per month to his wife and minor child with effect from 1st April, 2015. Admittedly, when this order was passed, the husband was employed in Indian Army drawing salary in excess of Rs.39,000/- per month. He retired on superannuation on 31st July, 2017. His post retirement dues of more than Rs.17 Lakhs were paid to him. Out of such considerable monetary benefits released by the Government of India also, he did not

clear any of his past dues of maintenance towards his wife and child. The record also suggests that he has now remarried and has child out of his second marriage, whom he supports. He had previously given an undertaking to pay sum of Rs.2 Lakhs towards past maintenance dues, which also he has not done, citing reasons of non availability of funds at all. He has been presenting before the Court through his Counsel, who he has changed multiple times; that after retirement, he draws a meager pension of Rs.4,255/- per month. He himself has physical disability preventing him from being engaged in gainful employment. He therefore, has no means to pay the maintenance amount.

2. The Court had attached his pension account in Punjab National Bank, BKC Branch. He had orally conveyed to the Court that very small amount is lying with the said bank account and that Court may appropriate his monthly pension towards the maintenance payable to the wife. Under the order dated 12th July, 2019, we had directed the Punjab National Bank, BKC Branch, to deposit the entire amount lying in the account of Respondent No.1 with the Registrar, Judicial. Pursuant to this order, the Bank had drawn a demand draft of a sum of Rs.11,05,711.71/- in favour of the Registrar, Judicial, which was presented before the Court on 19th July, 2019. We had directed the same be deposited and encashed by the Registry. We are informed that the same has been done.

3. It would therefore, emerge that the Respondent No.1 has deliberately

withheld sizeable source of funds available with him. All along, he had presented before us that he draws a meager pension, runs a household comprising his wife and child, he has no other source of income and that therefore, he is unable to pay past or present maintenance to the family. He at no point of time conveyed to us that his bank account still has funds in excess of Rs.11 Lakhs. The source of this amount simply cannot be his monthly pension.

4. Looking to the recalcitrant nature of the Respondent No.1, his utter disregard for truth and repeated disobedience of the Court's order and his own undertaking, we are not inclined to release this amount in his favour. Part of this amount would have to be adjusted and paid over to the wife towards her past accumulated maintenance dues. We must appreciate that so far the wife has received virtually no maintenance at all, since the High Court passed an order as far back as on 10th July, 2017 holding her entitled to receive such maintenance from 1st April, 2015 and which order has been upheld by the Supreme Court.

5. Counsel for the Petitioner has presented a calculation of the dues of the maintenance. As per the order of the High Court dated 10th July, 2017, total of which as on date comes to Rs.5,59,475/-. Subject to corrections and adjustment if any pointed out by Respondent No.1 later, a sum of Rs.5,59,475/- shall be immediately released in favour of the Applicant by the Registry by Account Payee Cheque.

6. The remaining amount shall be kept in the custody of the Registry. It may

be invested in a fixed deposit of Rs.1 Lakh each, out of which a sum of Rs.15,000/- shall be released in favour of the Applicant every month.

7. We are informed that the Respondent No.1 has filed an Application for modification of the maintenance on the ground that there has been a material change after the order was passed, namely his retirement and therefore, reduction in his earning. Let such Civil Application No.328 of 2018 be notified for hearing on 16th August, 2019.

8. In view of these developments and order passed, we do not propose to take further action against the Respondent No.1 though in our opinion he has clearly committed one. Before closing, the Punjab National Bank, BKC Branch, is requested to produce on record the bank statements of the Respondent No.1 of his bank account No.7538000100006589 from the date of opening of the account within two weeks from today.

9. The Contempt Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)

(AKIL KURESHI, J.)