

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Contempt Petition No.30 of 2018

Sandeep s/o Vasantrao Sahare

vs.

Padma Sandeep Sahare

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

*Mrs. Jyoti Dharmadhikari, Advocate for the Petitioner.
Shri V.G. Bhamburkar, Advocate for the Respondent sole.*

CORAM : S.M. MODAK, J.
DATE : 21st NOVEMBER, 2019.

A joint pursis of understanding filed by both the parties and their respective learned Advocates is taken on record and marked as Annexure-X for identification.

02] There is a mention in the said pursis that daughter - Srushti has started visiting the petitioner-father as per her desire and she will continue to do it in future. There is also mention that in stead of going into the merits of the matter in view of the facts that the arrangement is acceptable to the petitioner-father and the respondent-mother is having no objection for the same, the contempt petition may be disposed of.

03] In that view of the matter, I think, the interest of the minor daughter needs to be given

topmost priority, which is also the intent and purpose of all the laws dealing on this subject.

04] The Family Court, Nagpur directed the respondent - mother to handover the interim custody of daughter - Srushti to the petitioner - father. It was for a limited and specific period from 15/10/2017 up to 17/10/2017. It is the said order, which is not complied with by the respondent - mother and it is a grievance of the petitioner and that is why this contempt petition.

05] The respondent - mother has also filed her affidavit-in-reply. She has denied the adverse allegations and stated that during said period, half yearly examination of 9th Standard of daughter - Srushti was going on. It is pleaded in Paragraph 9 of the reply. The petitioner - father has also filed rejoinder thereby controverting the averments in the reply.

06] It is true that the contempt petition cannot be allowed to be withdrawn at the instance of parties. Ultimately, it is only the responsibility of the parties to bring it to the notice of a Court that the order of the trial Court is not being followed. So, later on it is also

the responsibility of this Court to enquire, whether there is non-compliance or not. That is why, once any of the parties bring it to the notice of the Court about non-compliance of any order, it is the responsibility of this Court to conduct an enquiry.

07] However, considering the peculiar facts of this case, this Court feels that if an enquiry is being conducted by keeping aside the understanding recorded by the parties, it will be more injurious to the interest of daughter - Srushti. So, the said interest needs to be given topmost priority rather than the requirement of law about conducting an enquiry.

08] For the above discussions, this Court feels that it is better to dispose of the contempt petition on the basis of the joint pursis of understanding rather than to conduct further enquiry. Because, if the enquiry is conducted, there will be further allegations and counter allegations, and daughter - Srushti may also be roped in that. Hence, this contempt petition is disposed of without going into the merits.

JUDGE

**sandesh*