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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION (ST) NO.199 OF 2020**

Shefali Akshay Dewani

.... Petitioner.

V/s

Akshay Kishore Dewani

..... Respondent.

Mrs. Taubon F. Irani for the Petitioner.

Mr. R.T. Lalwani a/w Mr. Prakash Mahadik for Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 31, 2020

P.C.:-

1] Petitioner has initiated these contempt proceedings with following prayers :-

“a. This Hon’ble Court may be pleased to hold the Respondent in Contempt of Court for violation/non-compliance of Order dated 08.07.2019 passed by the Hon’ble Family Court and upheld by Order dated 4th December, 2019 passed by this Hon’ble Court;

b. This Hon’ble Court be pleased to stay the divorce proceedings before the Hon’ble Family Court till such time that the contempt is not heard;

c. This Hon’ble Court be pleased to send the Respondent to civil prison for the contemptuous acts being persistently committed;

- d. To restrict the Respondent to travel abroad till the time he complies with the order;
- e. This Hon'ble Court may be pleased to impose appropriate fine on the Respondent;
- f. For costs be provided.
- g. For any other and further relief this Hon'ble Court deems fit and proper in the interest of justice."

2] With the assistance of learned Counsel for the Petitioner, I have perused the order dated 8/7/2019 passed in Petition No.A-2049 of 2018 and the common order dated 4/12/2019 passed in Civil Writ Petition Nos. 10689 of 2019 and 10133 of 2019.

3] From the record, it depicts that Petitioner has already initiated execution proceedings before the Family Court as is apparent from Darkhast Proceedings, referred to at page No.11 of the Contempt Petition. In the said execution proceedings, amongst other, what is prayed is, recovery of the amount of maintenance, renewal of leave and license agreement and providing of a car etc.

4] Contention of learned Counsel for the Petitioner that in spite of access being granted by Family Court to Respondent-husband, he is not visiting kids, in my opinion, will not constitute any contempt as the order granting access in favour of Respondent-husband, if not complied with, this Court cannot force father to visit his kids.

5] Apart from above, the Court having noticed that orders of which contempt is alleged are also under execution in Darkhast Proceedings as referred to hereinabove, contempt proceedings as such are not liable to be gone into as the orders of which contempt is alleged are executable.

6] Without commenting on merits of execution proceedings and keeping right of the Petitioner intact to pursue execution proceedings which are already initiated, I see no reason to go ahead with the present contempt proceedings. As such, present Contempt Petition fails and same stands dismissed.

(NITIN W. SAMBRE, J.)