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Contempt Petition No.1582 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Contempt Petition No.1582 of 2012

M.Sripriya
D/o.Late T.Markandan,
New No.51, Old No.23(First Floor),
Ananti Apartments, Nadu Street,
Mylapore, Chennai 600 004

... Petitioner

Vs.

P.V.Kamakshidasan
S/o. Late P.C.Venkateswaran,
Old No.25, New No.6,
Vedachalam Gardens,
Mandaveli, Chennai 600 028

... Respondent

PRAYER: Contempt Petition is filed under Section 11 of Contempt of Courts Act, 1971 to punish the Respondent for the wilful disobedience of the orders of this Court in Crl.O.P.No.28772 of 2008 dated 17.03.2009.

For Petitioner : Ms.S.Kala

For Contemner/

Respondent : Mrs.Sumithra Chakravarthy

ORDER

The contempt petition has been filed to punish the Respondent for the wilful disobedience of the orders passed by this Court in Crl.O.P.No.28772 of 2008 dated 17.03.2009.



2.The contempt petition arises out of a matrimonial dispute. The petitioner / wife got married to the respondent on 03.11.1991 and they have two children viz. Adhitya (son) aged about 26 years and Aishwarya (Daughter), aged about 22 years. The petitioner had filed a complaint under Domestic Violence Act, 2005 before the learned XXIII Metropolitan Magistrate at Saidapet, Chennai and the same was pending in C.C.No.3457 of 2008.

3.The respondent / husband filed a petition in Crl.O.P.No.28772 of 2008 to quash the proceedings which was pending before the Trial Court in C.C.No.3457 of 2008. The petitioner / wife had filed petitions in Crl.M.P.Nos.1 to 3 of 2008 in Crl.O.P.No.28772 of 2008 seeking to direct the respondent to pay litigation expenses to the petitioner and restraining the respondent herein from alienating or disposing or encumbering in any manner the shared household at Flat No.1C, Vinayaka Apartments, No.34, Bakthavatsalam Salai, Mylapore, Chennai-4 and to direct the respondent to deposit his passport before this Court. The respondent / husband had contended that he was not going to sell the property and that he would not alienate or encumber the shared household till the disposal of the case in C.C.No.3457 of 2008. In support of the contentions, the respondent / husband had also filed a sworn affidavit of undertaking before this Court. The undertaking was recorded by this Court, pursuant to the undertaking,



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Crl.O.P.No.28772 of 2008 was dismissed granting liberty to the husband to raise the grounds before the Metropolitan Magistrate Court and the trial Court was directed to dispose of C.C.No.3455 of 2008 within two (2) months.

4.It is the case of the petitioner / wife that while C.C.No.3457 of 2008 was pending, the respondent / husband had sold the shared household property viz. Flat No.1C, Vinayaka Apartments, No.34, Bakthavatsalam Salai, Mylapore, Chennai-4 to one Arun Rajendran and Bobby Arun for a sale consideration of Rs.1,37,98,900/-. Since the respondent / husband had sold the property in blatant violation of the undertaking given before this Court, the petitioner / wife had filed the present contempt petition seeking to punish the respondent / husband for wilful disobedience of the order of this Court in Crl.O.P.No.28772 of 2008 dated 17.03.2009.

5.The respondent / husband has filed a counter. In the counter it had been stated that the undertaking was given that the Flat will not be sold till the disposal of C.C.No.3457 of 2008. It was further contended that the undertaking was limited to two (2) months and that only after the disposal of C.C.No.3457 of 2008 by the learned Magistrate, the Flat was sold and thereby the respondent has not violated the undertaking and thereby no contempt had been committed by him.



It was further stated that the undertaking was given only with an intention of completing the proceedings in C.C.No.3457 of 2008 within a period of two months from the date of disposal of Crl.O.P.No.28772 of 2008 by this Court. Further, the respondent / husband had cooperated for the speedy disposal and that the respondent did not sell the property to evade payment of maintenance to his wife and children. It was further stated that since the respondent's mother fell ill and that she was advised to undergo emergency kidney transplant, the respondent left with no other option was forced to sell the property to save the life of his mother, thereby, he had not committed any contempt.

6.Both parties appeared before this Court and during the hearing the parties taking into consideration the nature of the dispute and the long duration of the pendency of the disputes between them, opted to go for mediation and the learned counsels for both parties requested the Court to mediate the dispute between them. Pursuant to the mediation, settlement has been arrived between the parties and based on the terms of the settlement, the marriage between the parties has been dissolved by mutual consent in H.M.O.P.No.1738 of 2021 filed u/s.13(B) of Hindu Marriage Act, 1955 by the V Additional Family Court, Chennai by divorce decree dated 07.04.2021. The parties have also entered into a Memorandum of Understanding. The terms of the Memorandum of understanding dated 09.04.2021 is extracted hereunder;



1.First and foremost the petitioner and the respondent render their sincere gratitude and gratefulness to the strenuous efforts taken by this Hon'ble Court to amicably settle their long pending disputes by mediating the parties.

2.The petitioner and the respondent have unanimously decided to give a quietus to all their disputes and as a result of which the petitioner and the respondent have filed a mutual consent divorce petition vide H.M.O.P.No.1738 of 2021 before the Hon'ble V Additional Family Court at Chennai. H.M.O.P.1738/2021 was also got ordered on 07/04/2021 and both the petitioner and the respondent were awarded divorce on mutual consent.

3.The respondent paid a sum of Rs.42,00,000/- (Rupees Forty Two Lakhs only) to the petitioner, son and daughter of the petitioner and respondent, towards her / their permanent alimony and towards the full and final settlement of all the past, present and future claims made by the petitioner for herself and also for past, present and future claims by the son and daughter of the petitioner and respondent or on behalf of the son and daughter of the petitioner and respondent, by way of Demand Draft bearing No.URJ 945941, dated 29th March, 2021 drawn on Punjab National Bank, Triplicane Branch, for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) favouring the petitioner, Demand Draft bearing No.URJ945944, dated 29th March, 2021 drawn on Punjab National Bank, Triplicane Branch for a sum of Rs.11,00,000/- (Rupees Eleven Lakhs only) in the name of Adhitya Kamakshidasan, son of petitioner and respondent, and Demand Draft bearing No.URJ945943, dated 29th March, 2021, drawn on Punjab National Bank, Triplicane Branch for a sum of Rs.21,00,000/- (Rupees Twenty One Lakhs only), including wedding expenses, in the name of Aishwarya Kamakshidasan, daughter of petitioner and respondent. All the drafts have been received by



the petitioner on 07.04.2021 and have been presented before the bank for encashment. All the demand drafts also got realized and the petitioner also acknowledges that the amount got credited in the savings bank account.

4.The petitioner has withdrawn all the litigations instituted by her against the respondent namely the Domestic Violence Complaint in C.C.No.3457/2008 pending on the file of the Hon'ble XXIII Metropolitan Magistrate Court at Saidapet on 07.04.2021.

5. The petitioner undertakes to declare that there is no other case is pending against the respondent before any other courts in India, Australia and any other Court in the world. The petitioner assures that she will not initiate any legal proceeding against the respondent before any other court in any part of the world.

6. Both parties also assure that they will not at any point of time will disturb each other, their peaceful living and promises that they will not initiate any legal proceeding against each other before any other Court in the World. Both of them will not communicate hereafter through any mode of communication to each other.

7. The petitioner and the respondent agree and undertake to abide by the terms and conditions mentioned in the mutual consent divorce petition which is attached herewith with this MOU and crave leave of this Hon'ble Court to treat the averments, terms and conditions in the mutual consent divorce petition as part and parcel of this Memorandum of Understanding.

8. Both the petitioner and the respondent agree to thus part in good conscience to live on their own and adhere in letter and spirit. Both the



petitioner and the respondent agree that they will not interfere in any matters in future.

9.Both the petitioner and the respondent undertake not to pursue, appeal or reopen any of the cases mentioned above and against Divorce in the Higher Judicature or any forum at any time.

10.Both the petitioner and the respondent agree to sign this Memorandum of Undertaking out of their own free will, stable mind and without any coercion and do all such acts to enforce the clauses of this joint agreement and signed this Memorandum of Understanding in the presence of their respective counsels after a full understanding of the contents.

In view of the above, it is, therefore, prayed that this Hon'ble Court may be pleased to take the Memorandum of Understanding on record and pass suitable orders and thus render justice.”

7.Learned counsel for the respondent / contemnor would submit that the property had been sold only after the disposal of C.C.No.3457 of 2008 and that the respondent has not committed any contempt and thereby would seek for closure of the petition. She would further submit that the parties have also amicably settled their dispute.

8.Learned counsel for the petitioner would submit that pursuant to reference to mediation the matter has been settled between the parties and the petitioner is not pressing the contempt application. However, she would submit that the petitioner has an apprehension that the respondent / husband would



interfere in the lives of the children and she would pray that suitable direction may be issued to the respondent not to interfere with the lives of the children.

9.The respondent would submit that the children have now attained majority and are grown up adults and other than interested in their welfare, he has no intention of interfering in their lives.

10.Heard the counsels. Perused the materials on record. The Memorandum of understanding filed by the petitioner and the respondent is taken on record.

11.The contempt petition arises out of matrimonial dispute. In view of the matter being settled, this Court feels it appropriate to give quietus to the issue and is inclined to close this contempt petition.

12.In the result this contempt petition stands closed. The terms of the Memorandum of understanding shall form part of this order.

MEMORANDUM OF UNDERSTANDING