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Cont. P. No.372 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

Contempt Petition No.372 of 2023 & Sub Application (OS) No.153 of 2023

Kiran Chava @ Kiran Kumar Chava, American Citizen
aged about 52 years, S/o C.S. Durga Prasad
2451, Midtown Avenue Unit 1304
Alexandria, Virginia 22303
United States of America

Petitioner

v

Usha Kiran Anne, American Citizen
aged about 55 years, D/o A.S. Rao
2451, Midtown Avenue Unit 1304
Alexandria, Virginia 22303
United States of America
(Presently staying in
23, Thambusamy Road
Kilpauk, Chennai 600 010)

Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, seeking to punish the respondent for the wilful disobedience of the order dated 03.01.2023 passed in H.C.P. No.1689 of 2022.

For petitioner

Mr. G. Rajagopalan, Sr. Counsel
for Mrs. Sunita Kumari

For respondent

Mr. G.S. Mani



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ORDER

This contempt petition has been filed alleging noncompliance of the order dated 03.01.2023 passed in H.C.P. No.1689 of 2022.

2 At the outset, it needs to be pointed out that though only Sub Application No.153 of 2023 has been listed today for passing final orders, with consent, the contempt petition itself is taken up for final disposal.

3 Mr. G. Rajagopalan, learned Senior Counsel appearing for the petitioner submitted that as per the directions issued by this Court *vide* order dated 19.04.2023, a flight ticket was taken for the respondent in Etihad Airways to enable her to board the flight to the USA on the midnight of 23.04.2023 - early morning of 24.04.2023 and that apart, arrangements were also made to accommodate the respondent in the USA. The learned Senior Counsel, inviting our attention to the respondent's email dated 25.04.2023, submitted that the respondent refused to make use of the ticket on the ground that her travel experience in Etihad Airways will be traumatic, due to which, the ticket that was booked by the petitioner for the respondent was wasted and thereby, the petitioner has lost nearly USD 1,033.41.



4

The respondent has once again changed her counsel and today, one Mr. G.S. Mani, Advocate, submitted that he is presently appearing for the respondent and that he has filed change of vakalat yesterday.

5

In the considered view of this Court, if the respondent is not inclined to avail of the orders passed by this Court and travel to the USA to be along with her children, we cannot force her to board the flight and send her to the USA. The petitioner has complied with the order passed by this Court and flight ticket was also taken to enable the respondent to board the flight on the midnight of 23.04.2023 - early morning of 24.04.2023 and the respondent has not chosen to travel to the USA.

6

In view of the same, we cannot put the blame on the petitioner and if at all, the respondent wants to travel to the USA in future, she has to make arrangements on her own and she cannot compel the petitioner to take air ticket for her once again. As already stated, once the respondent lands in the USA, the petitioner will have to take care of her, as was undertaken by him and recorded by this Court in the earlier order dated 19.04.2023. The children have flown along with the petitioner to the USA and they are now in the custody of the petitioner. In view of the same, the purport of the main order that was passed in the habeas corpus petition has been fulfilled.



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7 At this stage, pertinent it is to point out that the conduct of the respondent right through the contempt proceedings was contumacious and under normal circumstances, we would have taken steps to proceed further against her and pass orders in the contempt petition. In fact, the Contempt of Courts Act, 1971, provides for punishment including imprisonment. However, we are not inclined to take such an aggressive step in this case considering the welfare of the children which is of paramount interest. The respondent has now changed her counsel and the new counsel wants to make some submissions in the contempt petition. That apart, the uncle of the children has also taken steps to implead himself in this case and he is seeking the custody of the children.

8 In our considered view, it is not necessary for us to deal with any of the claims of the respondent or the uncle of the children, inasmuch as, this contempt petition confines itself only to the order passed in the habeas corpus petition. Since we are convinced that the object behind the order passed in the habeas corpus petition has been fulfilled, it is not necessary for us to keep this contempt petition pending any longer. The *inter se* rights and disputes between the parties will be worked out before the appropriate forum in the manner known to law.



Cont. P. No.372 of 2023

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In the light of the above discussion, this contempt petition stands closed.

Connected Sub Application is also closed.

(S.V.N., J.) (N.A.V., J.)

26.04.2023

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S. VAIDYANATHAN, J.

and

N. ANAND VENKATESH, J.

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