



Cont.P.(MD) No.1095 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CONT.P.(MD)No.1095 of 2023

in

H.C.P.(MD)No.527 of 2023

Gracy Vijaya

... Petitioner / Mother of the Detenu

Vs.

Gnanaraj

... Contemnor / Respondent No.4

PRAYER : Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the fourth respondent / contemnor for willful disobedience to implement the interim order passed by this Court in H.C.P. (MD)No.527 of 2023, dated 05.06.2023.

Page 1 of 6



Cont.P.(MD) No.1095 of 2023

For Petitioner : Mr.Henri Tiphagne

For Respondent : Mr.D.Srinivasaragavan

ORDER

[Order of the Court was made by R.SURESHKUMAR, J.]

This Contempt Petition is filed for the alleged disobedience of the interim order passed by this Court in H.C.P.(MD)No.527 of 2023, dated 05.06.2023.

2. This Court by order, dated 05.06.2023 has passed the following order :

"9. Accordingly, the following interim orders are passed:

"1. Hereby we give the visitation right to the petitioner in respect of the two detenu children in pursuance of which the fourth respondent is hereby directed to make available of the two children to the petitioner for two days, ie., on every Monday and Tuesday.



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Cont.P.(MD) No.1095 of 2023

2. On every Monday at 8.00 a.m, the children must be handed over to the petitioner, who shall take care of the children including taking them to the School and bringing them back from the School in the evening and keep them in her custody on the evening and the night of every Monday and on Tuesday, the same can be continued and on Tuesday evening at about 8.00 p.m, the children must be handed over back to the fourth respondent.

3. These arrangements shall continue as an interim measure until further orders. If there is any difficulty in complying with these orders by both sides, that can be brought to the notice of this Court. However, flimsy reasons, if anything, brought before this Court by either party, especially, the fourth respondent, would not be considered as an excuse for non-compliance of this order.

10. With these direction, this Habeas Corpus Petition is ordered to post after four weeks."

3. Pursuant to which, according to the petitioner herein, who is the mother of the children that the children have not been brought to comply



Cont.P.(MD) No.1095 of 2023

with the visitation rights granted by this Court, by order dated 05.06.2023.

That only, according to the petitioner, triggered her to file this Contempt Petition with the aforestated prayer.

4. Last hearing in this Contempt Petition, we directed the respondent to produce the children before this Court.

5. Accordingly, when the case is taken up for hearing today, the respondent counsel has produced the two children along with their father i.e., respondent herein.

6. We have enquired with the children. The boy is studying 10th standard and the girl is studying 8th standard and they spoke elaborately where they were very firm that they do not want to go with the petitioner / mother. When specifically asked, they also affirmed that they would not even to see her mother to comply with the visitation rights twice a week or once in a week or even once in a way.



Cont.P.(MD) No.1095 of 2023

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7. When that being the position, we cannot take up this Contempt Petition, as if that the respondent violated the orders of this Court dated 05.06.2023. Since the said order could not be complied with not because of the respondent, but because of the reason that the children are not co-operating to comply with that order which we have also ascertained on having the conversation with these two children.

8. In view of the same, we are no other option except to close this Contempt Petition without pursuing further this. However with a liberty to the petitioner to work out her remedy under the personal law before the appropriate legal forum to seek for the custody of the children in the manner known to law, accordingly, it is closed.

[R.S.K., J.] & [K.K.R.K., J.]

20.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
RM

Page 5 of 6



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Cont.P.(MD) No.1095 of 2023

R.SURESH KUMAR, J.

AND

K.K.RAMAKRISHNAN, J.

RM

CONT.P.(MD)No.1095 of 2023

20.06.2023