

2023:PHHC:149635
COC-484-2021 (O&M)
Date of Decision: 23.11.2023

Neelam

...Petitioner

Vs.

Bharat Bhushan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. T.P. Singh, Advocate for the petitioner.

Mr. Pavan Malik, Advocate for respondent No.1.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. This contempt petition has been filed alleging violation of order dated 27.08.2015, passed by this Court in regular second appeal directing maintenance of status quo.

2. An order passed in second appeal on injunction is essentially in the nature of orders passed under Order 43 Rule 5 of the Code of Civil Procedure, which is of injunction nature and if the same is violated, provisions of Order 39 Rule 2-A CPC can be invoked. However, without availing the said remedy, the present contempt petition has been filed before this Court.

3. The question whether the decree passed by this Court has been executed or not itself cannot be gone into in contempt petition. Question regarding its violation would also have to be decided on facts in terms of the provisions contained under order 39 Rule 2-A of CPC. However, without availing such remedies, filing of contempt petition for implementation of

judgment passed in second appeal or in civil proceedings, in the opinion of this Court would not lie.

4. The contempt petition is wholly misconceived and is dismissed accordingly, while leaving it open to the petitioner to avail remedy, in accordance with law.

5. Notices stand discharged.

(SANJEEV PRAKASH SHARMA)
JUDGE

23.11.2023.
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No