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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 13561 OF 2024**

**WITH**

**INTERIM APPLICATION NO. 7748 OF 2024**

**INTERIM APPLICATION NO. 15340 OF 2023**

**IN**

**CONTEMPT PETITION NO. 326 OF 2023**

**WITH**

**INTERIM APPLICATION NO. 15339 OF 2023**

**INTERIM APPLICATION NO. 15338 OF 2023**

**INTERIM APPLICATION NO. 7749 OF 2024**

**IN**

**CONTEMPT PETITION NO. 487 OF 2023**

**WITH**

**INTERIM APPLICATION NO. 7750 OF 2024**

**IN**

**CONTEMPT PETITION ST NO. 18611 OF 2023**

**WITH**

**INTERIM APPLICATION NO. 7751 OF 2024**

**IN**

**CONTEMPT PETITION ST NO. 33234 OF 2023**

Anuradha Anuj Sharma

.....Petitioner

**Vs.**

Anuj Sharma

.....Respondent

**WITH**

**CONTEMPT PETITION NO. 487 OF 2023**

**IN**

**WRIT PETITION NO. 6569 OF 2022**

**WITH**

**INTERIM APPLICATION ST NO. 24800 OF 2024**

**IN**

**WRIT PETITION NO. 6569 OF 2022**

**WITH**

**CONTEMPT PETITION ST NO. 18611 OF 2023**

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**WITH  
CONTEMPT PETITION ST NO. 33234 OF 2023  
IN  
WRIT PETITION NO. 6569 OF 2022  
WITH  
INTERIM APPLICATION NO. 12221 OF 2024  
IN  
CONTEMPT PETITION ST NO. 33234 OF 2023**

Mr. Anuj Sharma

....Petitioner

Vs.

Mrs. Anuradha Sharma, Through Mrs.  
Shalini Aggarwal (POA No. 1) and  
Mr. Amit Sharma (POA No. 2)

....Respondents

Mr. Abhijit Sarwate for respondent contemnor in contempt petition  
Mr. Rohaan Cama a/w Mr. Janay Jain a/w Ms. Aayushi a/w Mr.  
Vinayak Pandit a/w Ms. Maitreyee Garade i/b Mr. Ajinkya Udane for  
the petitioner in Writ petition

**CORAM : GAURI GODSE, J.**

**DATE : 18<sup>th</sup> OCTOBER 2024**

**ORDER:**

**CONTEMPT PETITION NO. 487 OF 2023 AND CONTEMPT  
PETITION ST NO. 18611 OF 2023:**

1. By an order dated 8<sup>th</sup> July 2024, these contempt petitions are admitted. Contempt notice was issued and served upon the contemnor for committing a breach of the order dated 8<sup>th</sup> July 2024 and, more particularly, clauses (B) and (C) of paragraph 28 read with the order dated 2<sup>nd</sup> August 2022, passed by the Hon'ble Apex Court.

2. The contemnor was served with the contempt notice, appeared through an advocate, and filed her affidavit-in-reply.

3. On 11<sup>th</sup> October 2024, contempt petitions were listed low on board and were mentioned along with connected writ petitions listed at serial no. 81. Since the contemnor was not present personally in court to give her an opportunity to remain present, the contempt petitions were directed to be listed today. Today again, the contemnor is not present physically; however, she has joined through video conferencing (VC).

4. Learned counsel for the contemnor points out Rule 9 of the Contempt of Courts (Bombay High Court) Rules, 1994 ('said Rules'). He submits that as per the said Rules, the contemnor is required to remain present personally or through an advocate. He submits that pursuant to the said Rules, the notice served upon the contemnor does not specify that she is required to remain present physically. He further submits that, as per the notice, she has engaged an advocate, who is present before the Court. He thus submits that since the notice does not indicate that the respondent-contemnor is required to remain personally present, she has chosen not to remain present.

5. Learned counsel for the contemnor has tendered copy of application dated 15<sup>th</sup> October 2024, which, according to the learned counsel for the respondent, is e-filed. He submits that four separate exemption applications, i.e. Interim Application (ST) 30352/2024, Interim Application (ST) 30335/2024, Interim Application (ST) 30337/2024 and Interim Application (ST) 30274/2024 in four Contempt Petitions are filed. However, only the applications in the two Contempt Petitions that are listed for final hearing are required to be decided. Learned counsel for the contemnor submits that he has raised various grounds for seeking exemption.

6. Learned counsel for the contemnor has pressed all the grounds raised in the application for exemption. Most of the grounds pertain to the merits of the matter. One of the grounds states that an order of contempt was passed on 8<sup>th</sup> July 2024, and till date, there has been no hearing. The ground states that it is more than three months from the date of order. Hence, the Court may take a liberal approach for the contemnor to remain present in India for every hearing, especially when she is not found guilty.

7. With reference to the said grounds raised for exemption, I find it necessary to record that once contempt notice is issued and served upon the contemnor as per Rule 9 of the said Rules, the contemnor is required to remain present in person before the Court unless otherwise ordered. In the present case, by order dated 11<sup>th</sup> October 2024, contempt petitions were directed to be listed today to give an opportunity to the contemnor to remain present. In view of the said directions issued by the order dated 11<sup>th</sup> October 2024, I see no reason why the contemnor is not present. The arguments raised on behalf of the contemnor regarding words used in contempt notice has no substance. Even if the party is unaware of a particular Rule, it is the responsibility of the advocate to inform the party about the relevant rule, which requires the person charged with contempt to remain present before the Court in person unless otherwise ordered.

8. The contents of the application for exemption nowhere explains, why inspite of the order dated 11<sup>th</sup> October 2024, the contemnor is not present in person. The reasons in the application for exemption are contrary to the arguments raised by the learned counsel for the contemnor that she is not present, as the contempt notice never called upon her to remain present in person.

9. I find it necessary to record here that when the contempt petitions were called out in the first session, learned counsel for the contemnor raised an objection that this Court cannot take up the contempt petitions as they do not pertain to the assignment of this Court. In spite of clear clauses in the roster, learned counsel for the contemnor insisted upon his interpretation to be accepted as correct, thereby stating that the contempt petitions would not pertain to the assignment of this Court.

10. Hence, the Learned Registrar (Judicial-I) was requested to issue a clarification. Pursuant to the order passed in the first session, learned Registrar (Judicial-I) has placed on record a clarification, thereby stating that the contempt petitions would pertain to the assignment of this Court in view of the roster. The objection raised on behalf of the contemnor regarding the roster clearly indicates that the contemnor never intended to remain present before the Court, and all attempts were made to get the contempt petitions removed from the causelist of this Court.

11. The main issue involved in the contempt petitions is regarding the order of access to enable the petitioner-father to meet the minor daughter. The order issuing contempt notice is for breach of orders

permitting access to the petitioner with reference to the contemnor's application seeking permission to leave India along with the child as she had a job offer for two years. Her undertaking is reproduced in the order dated 8<sup>th</sup> July 2022, stating that as per her agreement with her employer, her date of joining was scheduled on 1<sup>st</sup> July 2022. Undertaking further stated that the company had not included the time/period/duration of her work in Poland. The undertaking further stated that she undertook to come back to India after two years of joining the company in Poland.

12. In view of the contents of the contemnor's undertaking and considering the reasons stated in the application for exemption tendered today, I have directly interacted with the contemnor, who has joined through VC. On a specific query being made to her as to whether she intends to return to India along with the child or she intends to continue to work in Poland; she is unable to answer the query and states that before answering the question, she needs to discuss it with her employer. On another specific query being made to the contemnor, whether she would remain personally present on the next date, she was unable to assure to remain present for the hearing of the contempt petition and she did not answer the question put to

her.

13. Hence, for the reasons stated above, I do not find that the grounds raised in the exemption applications are genuine, more so because they do not refer to any explanation regarding the order dated 11<sup>th</sup> October 2024 granting an opportunity to the contemnor to remain present personally. Hence, the contemnor's request for exemption from remaining personally present is rejected.

14. The main issue is regarding access to enable the child to meet the father. Hence, the presence of the contemnor in person before the court and the child's presence in India is necessary. Since the contemnor is not ready to assure this Court to remain present on the next date, the petitioner is directed to implead the Union of India through the Ministry of External Affairs and Ministry of Home Affairs for taking necessary steps to secure the presence of the contemnor including extradition proceedings, if found necessary.

15. The petitioner is granted leave to amend to add the Union of India through the Ministry of External Affairs and the Ministry of Home Affairs as respondents in both contempt petitions.

16. Amendment to be carried out within one week.

17. Issue notice to the added respondent, returnable on 20<sup>th</sup> November 2024.

18. In addition to the Court notice, the learned advocate for the petitioner is permitted to serve the added respondent by private notice along with a copy of this order.

19. List the contempt petitions on 20<sup>th</sup> November 2024. To be listed high on board.

20. Registry is directed to forward copy of this order to the Embassy of Poland in India for information and necessary action.

**[GAURI GODSE, J.]**