



Sub Application No.749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Sub Application No.749 of 2024 &
Cont P DR.77195 of 2024

N.Marudhambal : Petitioner

versus

1.M.Nagasundaram
2.Rajkumar Muthukrishnan Chair Person,
Child Welfare Committee.
3.Uma Maheswari,
Principal,
Madras Seva Sadan School.
4.Rammurthy,
Inspector,
G-7, Chetpet Police Station,
Chennai – 600031. : Respondents

Prayer in Sub Application: Petition filed under Section 151 of the Code of Civil Procedure to accept the cause title of respondents 2 to 4.

Prayer in Contempt Petition: Petition filed under Section 11 of the Contempt Court to punish the respondents herein for the willful disobedience of the order of the Court dated 13.07.2023 in CRP.No.2314 of 2023.



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For Petitioner : Ms.V.Anusha

For Respondent : Mr.David Sundar Singh

ORDER

The contempt petition arises out of an interim order passed by this Court in CRP(PD).No.2314 of 2023 dated 13.07.2023.

2. The petitioner and the first respondent are the husband and wife. The wife had initiated DVC.No.93 of 2022 on the file of the Additional Mahila Court at Egmore. She sought for various reliefs as she is entitled to in terms of Protection Of Women From Domestic Violence Act, 2005.

3. Pending the proceedings, an order came to be passed by the Additional Mahila Court in CrI.M.P.No.273 of 2023 on 02.05.2023. The Additional Mahila Court had withdrawn the protection order that it had passed on 24.08.2022 due to change in circumstance. On 02.05.2023 itself,



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the petitioner filed the memo seeking withdrawal of DVC.No.93 of 2022.

The said memo was refused to be received. This is because the court felt that the petitioner wanted to avoid the visitation rights granted to the first respondent by the Court.

4. Challenging the same, a revision was presented to this Court in CRP.(PD)No.2314 of 2023. On 13.07.2023, further proceedings in DVC.No.93 of 2022 were kept in abeyance. In the meantime, certain events have overtaken the parties.

5. According to the petitioner, she was beaten up by the first respondent in the presence of the fourth respondent. On account of the fact that she protested against the high-handed actions of the first respondent, the fourth respondent alleged that he would lodge a false case against the petitioner and remand her to custody. It was then she came to know that the first respondent had approached the Child Welfare Committee to take over the custody of the minor child who is a special child (aurally challenged) and he had managed to take custody of the child from the third respondent



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institution in September 2023. Therefore, pleading that Child Welfare Committee had played an active role in handing over the child to the first respondent, the petitioner came forward with this contempt petition.

6. Ms.Anusha would point out that the Child Welfare Committee does not have the power to grant interim custody while matters are pending before the Court. She would rely upon the verdict of Madhya Pradesh in ***Priya Yadav Vs. State of M.P. and others, reported in 2017 (2) MPLJ 404*** and that of the Delhi High Court in ***Geetanjali Dogra v. State & Ors in CM(M).1140 of 2018*** dated 06.09.2019.

7. In order to verify the facts, I directed Ms.Anusha to serve the entire set of papers on the Child Welfare Committee. Child Welfare Committee also entered appearance through Mr.David Sundar Singh. He sought time to file a counter. Accordingly, he presented the counter yesterday. Along with the same, he has produced the records including the letter written by the petitioner on 02.06.2023.

8. The Child Welfare Committee would state that it had not passed



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any orders granting custody of the child to the first respondent. It would state that on 02.06.2023, the petitioner, brought the minor child to the Chennai Child Welfare Committee, stating that she was unable to care for the child due to her hostel accommodations.

9. Taking into consideration the condition of the petitioner and the position of the child, the child was placed by the Child Welfare Committee at Seva Sadhan Child Care Institution, Harrington Road, Chennai. It is pertinent to point out that Seva Sadhan Child Care Institution is registered under the Juvenile Justice (Care and Protection of Children) Act, 2015. As per the procedures laid down under the Juvenile Justice Act, the Child Welfare Committee called for a report from an officer. The said officer conducted a field enquiry and submit a report on 26.09.2023.

10. As the committee felt that if the child is kept away from her family for a prolong period of time, it would not be in the interest of the child. Acting on the request of the father, the child was handed over by the Child Welfare Committee to the first respondent. He had approached the Child Welfare Committee along with the brother of the petitioner as well as the



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sibling of the child, who is in the custody of the father and other relatives.

11. In order to substantiate the aforesaid facts, the records have been placed before the court which shows that on 18.10.2023, the Child Welfare Committee had followed the procedures as required under the Juvenile Justice Act. They would state that being a special child, the committee decided to hand over the child to a parent for the welfare and future of the child.

12. On my direction, Mr.David Sundar Singh handed over the entire records to Ms.Anusha. She requested time to go through it. After having gone through the record, the matter was argued by her, today. She would plead that when the High Court had stayed the proceedings of the Domestic Violence Case, the Child Welfare Committee and the other respondents have committed contempt by disobeying the said order.

13. Mr.David Sundar Singh would submit that the Child Welfare Committee had followed the requirements of the Juvenile Justice Act, 2015



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and they had not violated the order of the Court in any manner.

14. I have carefully considered the arguments on either side.

15. In order to attract the provisions of Contempt of Court Act, it must be shown that the parties had willfully and deliberately violated the orders of the Court. The effect of the order passed by this Court was only keeping the proceedings before the Domestic Violence Court at Egmore in abeyance . There was no direction with respect to the protection of the child.

16. Prima facie, the records produced by the Child Welfare Committee show that the petitioner had handed over the child on 02.06.2023 to the Child Welfare Committee stating that she is unable to take care of the child. It is pertinent to point out that the civil revision petition itself was filed only on 16.06.2023 and the interim order was obtained on 13.07.2023. Therefore, even on the date when the civil revision petition had been filed, the child was in the custody of Seva Sadhan Child Care Institution.



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17. I have carefully gone through affidavit filed by the civil revision petitioner and nowhere in the affidavit, she disclosed the fact that she had handed over the child to the said Institution through the office of the Child Welfare Committee. The Child Welfare Committee has taken steps in accordance with Juvenile Justice Act and has come to a conclusion that in the best interest of the child, the child is handed over to her parent who is willing to take care of the child.

18. In addition, the report shows that the father is having the custody of the sibling of the said child. It is too fundamental but I would have to reiterate that permitting a special child to grow with her sibling would be in the best interest of the child. The Child Welfare Committee, being a statutory authority, has followed the statutory obligations placed on it. Therefore, I cannot find them guilty of contempt as they have not assisted in or proceeded further with respect to the domestic violence proceedings.

19. In fact they cannot proceed further also, since they are not parties



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to the said proceedings. The same would operate for the respondents 2, 3 and 4. The Domestic Violence Case proceedings having been kept in abeyance by this Court and that order not having been violated, I am not able to see any contempt in the matter.

20. Suffice it to state that whatever I have stated above is only for the purpose of disposal of this contempt proceedings. It is always open to the contempt petitioner-mother of N.Vethasri to approach the jurisdictional court and seek orders regarding guardianship of the child.

21. With the above liberty, finding there is no contempt, this sub application is dismissed. No costs. Consequently, the contempt petition is rejected.

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Index : Yes/No

Speaking Order/Non speaking order

Neutral Citation : Yes/No



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