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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 23rd August, 2024**

+ **CONT.CAS(C) 1324/2024**

PRIYA BHATIA

.....Petitioner

Through: **Ms.Aditi Shivadhatri, Mr. R. R. Bharti, Advs. with Ms. Subedita Rani, Advocate.**

versus

AMIT BHATIA

.....Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 48333/2024 – EXMP.

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CONT.CAS(C) 1324/2024

3. The petitioner/wife is seeking initiation of contempt proceedings against the respondent/husband for the latter being in wilful disobedience of the order dated 30.05.2024 passed by the learned Judge, Family Court, North West District, whereby on an application moved by the petitioner/wife under Section 125 of Cr.P.C., the respondent/husband has been directed to make a payment of interim maintenance @ Rs.1.40 lacs per month, which is to be deposited by him directly in the bank account of the petitioner/wife by 10th of each Calendar month. It was further directed that the arrears of



interim maintenance due from 2017, be also deposited within a period of six months.

4. During the course of arguments, it was pointed out that an application has already been moved before the learned Judge, Family Courts for execution of the aforesaid order, which is listed for hearing on 03.10.2024. A bare perusal of the aforesaid order would show that the learned Judge, Family Courts has taken into consideration all the relevant facts in coming to the conclusion that the respondent/husband is liable to make the payment of interim maintenance to the petitioner/wife and her two children. It is a matter of record the respondent is employed as a General Manager (Revenue and Operations) in Satara Toll Road Pvt. Ltd., Pune.

5. There is no reason for this Court to exercise any jurisdiction in the present matter as at this stage, there is no gainsaying that the Family Court has ample powers to enforce the compliance of its orders and ensure a speedy and efficacious realisation of not only the arrears of maintenance but also ensure regular payment of maintenance of the petitioner for herself and her two children.

6. Faced with the above said situation, learned counsel for the petitioner relied on a decision in the case of **HSBC PI Holdings (Mauritius) Limited v. Pradeep Shantipershad Jain**¹ and it was urged that the contempt proceedings and execution proceedings are two separate remedies and can be invoked simultaneously. Reference was also invited to a decision in the case of **Rama Narang v. Ramesh**

¹ MANU/SC/0840/2022



Narang², wherein it was held that merely because an order or decree of the Court is executable in nature, the same would not take away the Court's jurisdiction in contempt proceedings.

7. However, in the last case cited, it was also held that much would depend upon the facts and circumstances of the case or the contextual background in which the Court may or may not decide to exercise its contempt jurisdiction. It was reiterated that normally, the parties should resort for execution of the decree or implementation of an order, which is the effective alternate remedy in law.

8. Reference can also be invited to a decision in the case of **R.N. Dey. v. Bhagyabati Pramanik**³, wherein a petition was filed under the Contempt of Courts Act, 1971 for non-payment of the amount awarded consequent to the acquisition of land and it was held as under:

“7.....the weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the Court is to be exercised for maintenance of Courts dignity and majesty of law. ...”

9. It was further held that:

“8. ...the decree-holder, who does not take steps to execute the decree in accordance with the procedure prescribed by law, should not be encouraged to invoke contempt jurisdiction of the court for non-satisfaction of the money decree.”

10. Avoiding a long academic discussion, we may also refer to the decision in **Soorajmull Nagarmull v. Brijesh Mehrotra**⁴, wherein

²(2006) 11 SCC 114

³(2000) 4 SCC 400

⁴ 2021 SCC Online SC 1252



the proceedings arose under the Land Acquisition Act, 1894. The Supreme Court observed that since the Land Acquisition Act, 1894 is a comprehensive code in itself and provides a detailed procedure for acquisition of land and payment of compensation based on common law principles of justice, equity and good conscience, the parties should seek their remedy under the same Act rather than expanding the scope of the directions by filing contempt petitions.

11. Before parting with this case, insofar as the decision in the case of ***HSBC PI Holdings (Mauritius) Limited (supra)*** is concerned, the same is distinguishable since the respondent/contemnor in the aforesaid case was in deliberate and wilful disobedience of the judgment/order passed by the Supreme Court in a Civil Appeal as well as in the pending proceedings before the Supreme Court and also involving an issue of valuable foreign exchange towards the payment of debts impacting public interest.

12. Accordingly, this Court refrains from exercising jurisdiction for now with liberty to the petitioner to approach the learned Family Court for appropriate directions.

13. The learned Judge, Family Courts is impressed upon to prepone the hearing, if convenient, as per the Court dockets and pass appropriate coercive process, if needed, for a direction to the employer to remit the amount of maintenance directly to the account of the petitioner/wife besides taking other coercive processes against the respondent/husband for realisation of the outstanding dues towards the amount of maintenance.



14. The present contempt petition is accordingly disposed of without prejudice.

DHARMESH SHARMA, J.

AUGUST 23, 2024
VLD

Signature Not Verified

Digitally Signed By: PRAKASH
KUMAR VATS
Signing Date: 27/08/2024
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CONT CAS (C) 1324/2024

Page 5 of 5