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Cont.P.No.2545 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.12.2022

Coram:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Cont.P.No.2545 of 2022 and  
Sub.Appl.No.683 of 2022

G.P.Bhaskar

...Petitioner

Vs.

1.Sumathi,  
The Presiding Judge,  
1<sup>st</sup> Additional Family Court of Chennai,  
Madras High Court Campus,  
Chennai 600 104

2.J.Shobana,  
No.D-87, Bharathiar Street,  
Thirunagar,  
Madurai 625 006

...Respondents

PRAYER:

Contempt petition filed under Section 11 of the Contempt of Court Act, 1971 to punish the respondents herein for their willful and wanton act of Contempt of the Hon'ble Courts order dated 11.01.2017 in CRP.PD.No.43 of 2017.

1/8



Cont.P.No.2545 of 2022

WEB COPY

For Petitioner : Ms.Vedasree  
for Mr.G.Vijay Anand Associates

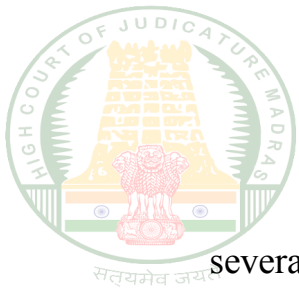
For Respondents  
For R1 : Mr.M.Santhanaraman

### ORDER

This contempt petition has been filed to punish the respondents for non compliance of the order passed by this Court dated 11.01.2017 in CRP.PD.No.43 of 2017, thereby directed the I Additional Family Court, Chennai to proceed with the matter and dispose of the HMOP.No.2726 of 2013 on or before 31.03.2017.

2. Ms.Vedasree, the learned counsel for the petitioner and Mr.M.Santhanaraman, the learned counsel for the first respondent.

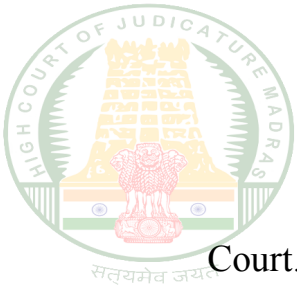
3. It is seen that the petitioner filed petition for divorce in HMOP.No.2726 of 2013 on the file of the I Additional Family Court, Chennai on the ground of cruelty and desertion. It was pending for the past



Cont.P.No.2545 of 2022

several years and as such, the petitioner filed civil revision petition before this Court in CRP.PD.No.43 of 2017 for speedy disposal of the divorce petition. This Court, by order dated 11.01.2017, directed the trial court to dispose of the divorce petition on or before 31.03.2017.

4. The second respondent filed interlocutory application for maintenance in IA.No.1571 of 2016 seeking interim monthly maintenance of Rs.30,000/- and also seeking Rs.30,000/- towards litigation expenses. The trial court allowed the said maintenance petition and the petitioner was directed to pay a sum of Rs.10,000/- to the second respondent and a sum of Rs.5,000/- in favour of their daughter as interim monthly maintenance from the date of the petition and also ordered litigation expenses to the tune of Rs.20,000/-. Aggrieved by the same, both the petitioner and the second respondent filed appeal before this Court in CMA.Nos.1336 and 1456 of 2017. Both the civil miscellaneous appeals were dismissed by this Court by order dated 11.02.2021. On one hand, the petitioner having been filed appeal as against the order of interim maintenance and on the other hand, filed this petition for contempt as against the Presiding Officer of the Family



Cont.P.No.2545 of 2022

Court. It is nothing but clear abuse of process of court, since normally, this

Court direct the trial court to complete the trial within the stipulated time.

However, on the instance of the parties, the trial court could not complete the trial within the period stipulated by this Court.

5. In the case on hand, as stated supra, the petitioner filed appeal and after disposal of the said appeal by order dated 11.02.2021, filed this contempt petition. That apart, the order was passed by this Court in CRP.PD.No.43 of 2017 on 11.01.2017. If at all any contempt is made out, the petitioner ought to have filed contempt petition within a period of one year from the date of receipt of the order. It is relevant to extract the provision under Section 20 of the Contempt of Courts Act, 1971 hereunder:

*20. Limitation for actions for contempt—No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the*



Cont.P.No.2545 of 2022

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*expiry of a period of one year from the date on which the contempt is alleged to have been committed."*

6. Whereas the present contempt petition has been filed on 12.07.2022. Though this Court directed the trial court to dispose of the divorce petition on or before 31.03.2017, only because of the petitioner, there was delay in disposal of the main petition. In fact, even after ordering interim maintenance, the petitioner did not even comply with the same. Therefore, the execution petition has also been filed as against the petitioner and it is pending before the Family Court. As such, the contempt petition is not maintainable and barred by limitation. Even then, the Registry, without noticing the date of the order, mechanically numbered the contempt petition. It is also curious to note that the Presiding Officer / the first respondent is presiding the Court only from 25.08.2021, whereas the order was passed by this Court on 11.01.2017. Therefore, the first respondent is being the Presiding Officer of the Court cannot be impleaded as a contemnor in any event.



Cont.P.No.2545 of 2022

7. In view of the above, this contempt petition is dismissed with cost. Accordingly, petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Chief Justice Relief Fund, High Court of Madras within a period of two weeks from today. Consequently, connected sub application is closed.

8. Post the matter on 23.12.2022 under the caption “for reporting compliance”.

09.12.2022

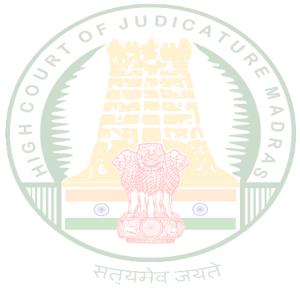
Speaking Order/Non Speaking Order

Index : Yes / No

Internet : Yes

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Note: Issue order copy on 09.12.2022



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Cont.P.No.2545 of 2022



WEB COPY



Cont.P.No.2545 of 2022

**G.K.ILANTHIRAIYAN, J.**

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To

- 1.Sumathi,  
The Presiding Judge,  
1<sup>st</sup> Additional Family Court of Chennai,  
Madras High Court Campus,  
Chennai 600 104
- 2.J.Shobana,  
No.D-87, Bharathiar Street,  
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Cont.P.No.2545 of 2022

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8/8