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p.d. Vs.u.w.

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Court : Delhi

Decided On : Jun-06-2019

Appellant : p.d.

Respondent : u.w.

Advocate for Def. : Ms. Jyoti Taneja

Advocate for Pet/Ap. : Mr. Prosenjeet Banerjee

Judgement :

$~1 * IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on:

6. h June, 2019 + CONT.CAS(C) 338/2019 & CM Appl. 18484/2019 P.D. .....

... Petitioner
Through: Mr. Prosenjeet Banerjee & Ms.Meera Menon, Advocates. versus U.W. ..... Respondent Through: Ms. Jyoti Taneja & Mr.Nikhilesh Kumar, Advocates. CORAM: HONBLE MR. JUSTICE PRATEEK JALAN PRATEEK JALAN, J.

(ORAL) % 1. The present petition has been instituted in respect of alleged violations of an order dated 08.02.2019, passed by the Family Court, Dwarka in Civil Suit No.4/2019. The suit was filed by the petitioner (wife) against the respondent (husband). By the aforesaid order dated 08.02.2019, the Family Court granted an ex-parte injunction, restraining the respondent from proceeding with Docket No.FM-11-422-19L, filed before the Superior Court of New Jersey,

Chancery Division, Family Part, Mercer County. The petitioner alleges that, contrary to the injunction granted, the respondent has, in fact, proceeded with the said petition.

2. The prayers in the petition seek initiation of contempt proceedings, attachment of the respondent's property, issuance of non-bailable warrants, CONT.CAS (C) 338/2019 Page 1 of 18 and revocation of his passport. On 22.04.2019, notice was issued in this petition only with respect to the first of these prayers. The respondent has filed an affidavit in reply.

3. Ms. Jyoti Taneja, learned counsel for the respondent, raised a preliminary issue as to maintainability of this petition, in view of the fact that recourse to Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 ("CPC") is available to the petitioner. The submission was resisted by Mr. Prosenjeet Banerjee, learned counsel for the petitioner, who urged the Court to proceed in exercise of power under the Contempt of Courts Act, 1971 (the Act") and Article 215 of the Constitution of India. Extensive arguments were heard on this preliminary issue on 24.05.2019, and by this order, I propose to dispose of the objections on maintainability raised by Ms. Taneja.

4. The petitioner and the respondent are both Indian citizens, resident in the United States of America. They were married in New Delhi under the Hindu Marriage Act, 1955 [the HMA]. on 12.12.2014 and have a son, born on 23.12.2016. Both parties have, towards the end of 2018, filed matrimonial proceedings against each other. Although there is some controversy as to the exact chronology of events in this regard, it appears that the respondent filed divorce proceedings before the Superior Court in New Jersey on 21.11.2018, and the petitioner filed proceedings under Section 13(1)(a) of the HMA on 11.12.2018. In January, 2019, the petitioner also filed a suit in the Family Court, Dwarka, for declaration and permanent injunction, restraining the respondent from proceeding with his petition in New Jersey. The order dated 08.02.2019 referred to above was passed on the petitioner's application under Order XXXIX Rule 1 & 2 in CONT.CAS (C) 338/2019 Page 2 of 18 that suit. The respondent has since filed an application under Order XXXIX Rule 4 of the CPC, before the Family Court, for

vacating the ex-parte injunction. That application remains pending, and is next fixed for hearing on 17.07.2019.

5. After the said order was passed, the petitioner informed the respondent of the same by an email dated 08.02.2019, and also filed a copy of the order before the New Jersey Court on 19.02.2019. While submitting the order to the New Jersey Court, the petitioner expressly stated as follows:-

"The present letter may not tantamount to submission of jurisdiction by the defendant before this Honble Court and the same is without prejudice to the rights and contention of the defendant. On the same date, the petitioner also submitted various other documents to the New Jersey Court, including a certification regarding methods of alternate dispute resolution and certification of insurance coverage. The New Jersey Court scheduled a "Case Management Conference" on 05.04.2019. One day prior to the scheduled Case Management Conference, the petitioner reiterated that the aforesaid order estopped her from proceeding in New Jersey, and requested an adjournment of the Case Management Conference. By a response of the same date, the respondent opposed this request, contending inter alia that, the petitioner had submitted to jurisdiction in New Jersey and that the order of the Family Court dated 08.02.2019 had been obtained by misrepresentation. The respondent specifically urged that the Case Management Conference proceed as scheduled, and that the petitioner be directed to appear at that time. CONT.CAS (C) 338/2019 Page 3 of 18 6. In view of these facts, the Case Management Conference did take place before the New Jersey Court on 05.04.2019, at which both parties were present and the respondent herein was also represented by counsel. A transcript of the said conference has been placed on record by the respondent. The New Jersey Court expressly declined to rule at that stage as to waiver of the petitioner's objection on jurisdiction, but also decided to proceed further in the matter. The Court appears to have informed the petitioner that a dismissal of the proceedings could be granted only upon filing of a formal application. It is undisputed that, pursuant to the orders of the New Jersey Court, the respondent, in fact, complied with the directions, including filing of interrogatories and seeking that hearings are scheduled.

7. The aforesaid facts have led to the institution of these proceedings under Sections 2(b) and 10 of the Act, read with Article 215 of the Constitution. Although the petitioner had earlier filed an application under Order XXXIX Rule 2A, that was not pressed in view of the present contempt petition. Mr. Banerjee has argued that the undisputed conduct of the respondent in proceeding with the divorce proceedings filed in the New Jersey Court is in clear and direct contravention of the injunction granted by the Family Court.

8. Ms. Taneja has raised three objections at this stage to the continuance of the contempt petition. The first of these is that violation of an order passed under Order XXXIX Rule 1 and 2 of the CPC attracts the provisions of Order XXXIX Rule 2A, and proceedings can be instituted before the Court which granted the injunction. In these circumstances, she contended that proceedings before the High Court under Section 10 of the Act and Article 215 of the Constitution are not maintainable. Second, she submitted CONT.CAS (C) 338/2019 Page 4 of 18 that the ex-parte order granted by the Family Court had been obtained by misrepresenting that the divorce proceedings filed by the petitioner in India were prior in time to the divorce proceedings filed by the respondent in New Jersey. As this was, according to her, despite the knowledge of the petitioner regarding the prior institution of the New Jersey proceedings, Ms.Taneja characterized the order dated 08.02.2019 as a "nullity", having been obtained by fraud. The third objection was that the facts did not disclose a contempt, as the respondent had proceeded in the New Jersey proceedings only to avoid committing a default therein. His actions were thus borne out of a compulsion to comply with the orders and directions issued by the New Jersey Court, and did not constitute a wilful disobedience of the order of the Family Court. In this regard, Ms. Taneja also submitted that the petitioner herself proceeded in the New Jersey Court and submitted to that jurisdiction.

9. Mr. Banerjee has disputed each of the aforesaid submissions, relying upon the facts narrated above. Both sides have also cited numerous authorities, both in their oral arguments and their written submissions, to which I will refer presently.

10. The principal question to be decided concerns the maintainability of the proceedings. The provision of Article 215 of the Constitution, Section 2(b) and 10 of the Act, and Rules 2A and 4 of Order XXXIX of the CPC, which are relevant for this purpose, are reproduced below:-

"Article 215 of the Constitution of India 215. High Courts to be courts of record.-. Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself CONT.CAS (C) 338/2019 Page 5 of 18 Section 2 (b) of the Contempt of Courts Act, 1971 2. Definitions.-. In this Act, unless the context otherwise requires, - xxx xxx xxx xxx (b) civil contempt means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court; xxx xxx xxx xxx Section 10 of the Contempt of Courts Act, 1971 10. Power of High Court to punish contempts of subordinate courts.- Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself: Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code (45 of 1860). Order XXXIX Rule 2A and 4 of the Code of Civil Procedure, 1908 xxxx xxxx xxxx 2A. Consequence of disobedience or breach of injunction - (1) In the case of disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in CONT.CAS (C) 338/2019 Page 6 of 18 the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release. (2) No attachment made under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto. xxxx xxxx xxxx xxxx 4. Order for injunction may be discharged, varied or set aside - Any order for an injunction

may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order: [Provided that if in an application for temporary injunction or in any affidavit supporting such application a party has knowingly made a false or misleading statement in relation to a material particular and the injunction was granted without giving notice to the opposite party, the Court shall vacate the injunction unless, for reasons to be recorded, it considers that it is not necessary so to do in the interests of justice: Provided further that where an order for injunction has been passed after giving to a party an opportunity of being heard, the order shall not be discharged, varied or set aside on the application of that party except where such discharge, variation or setting aside has been necessitated by a change in the circumstances, or unless the Court is satisfied that the order has caused undue hardship to that party.]. 11. In support of her contention that the present proceedings are not maintainable, Ms. Taneja has cited the judgment of the Supreme Court in Kanwar Singh Saini vs. High Court of Delhi (2012) 4 SCC307 and of this Court in Govind Sarda vs. Sartaj Hotels Apartments & Villas Pvt. Ltd. & Ors., 2006 (90) DRJ69and Anand Kumar Deepak Kumar v. Haldiram CONT.CAS (C) 338/2019 Page 7 of 18 Bhujiawala (2008) 146 DLT100 She also cited the judgment of the Allahabad High Court in Parmendar Kaur v. Akhilesh Yadav (in Cont.Cas. No.1158/2017, decided on 22.06.2017). Mr. Banerjee, on the other hand, also relied upon Kanwar Singh Saini (supra) and upon judgments of this Court in Shobha Shreshta v. Jay Randolph Vass (2009) 159 DLT364and Raj Pal Yadav v. Murli Projects Pvt. Ltd. (2016) 231 DLT211 12. Before analyzing the authorities, it is important to recall that the purpose of the Court's contempt jurisdiction is not just to ensure execution or implementation of orders, but to secure public confidence in the administration of justice itself. The power of the Courts to make orders and give directions would be much diminished without the power to ensure the enforcement of those orders and to punish those who violate them. The Supreme Court in J R Parashar vs. Prashant Bhushan (2001) 6 SCC735explained this in the following terms:-

"12. A civil society is founded on a respect for the law. If every citizen chose to break the law, we would have no society at all, at least not a civil one. It is this respect for the law and of the law-enforcing agencies that, somewhat paradoxically, ensures the freedoms recognized in the Constitution. The respect is

at best a fragile foundation. While it is to be built and sustained by the conduct of the persons administering the law, it has to be shored up by sanctions for actual breaches of the law and for actions destroying that respect. The law of contempt is framed for the second purpose. 13. Turning to the judgments cited by the parties, the question of maintainability, in my view, stands settled by the judgment of the Supreme Court in Kanwar Singh Saini (supra). In that case, the High Court had initiated proceedings for criminal contempt on a representation of the Trial Court (in an application under Order XXXIX Rule 2A) that an undertaking CONT.CAS (C) 338/2019 Page 8 of 18 given to it had been violated. While dealing with the maintainability of proceedings under Order XXXIX Rule 2A of the CPC, the Court held that such proceedings could be instituted during the pendency of the suit and not after its disposal by a decree. The Supreme Court further held that it was not desirable for the High Court to initiate criminal contempt proceedings for disobedience of an order of injunction which could have been otherwise executed by attachment of property or detention in civil prison. It is in this context that the Court held as follows: 26. The case requires to be considered in the light of the aforesaid settled legal proposition. Whatever may be the circumstances, the court decreed the suit vide the judgment and decree dated 12-5-2003. The said decree was passed on the basis of admission/undertaking made by the appellant on 29-4-2003 and the pleadings taken by him in his written statement. Therefore, in a case where there was any disobedience of the said judgment and decree, the application under Order 39 Rule 2-A CPC should not have been entertained. Such an application is maintainable in a case where there is violation of interim injunction passed during the pendency of the suit. In the instant case, no interim order had ever been passed. Thus, the appropriate remedy available to the decree-holder Mohd. Yusuf had been to file application for execution under Order 21 Rule 32 CPC. The procedure in execution of an injunction decree is same as prescribed under Order 39 Rule 2-A i.e. attachment of property and detention of the disobedient to get the execution of the order. In view thereof, all subsequent proceedings were unwarranted.

27. The application of the decree-holder had been for violation of the undertaking which at the most could be civil contempt as defined under Section 2(b) of the 1971 Act as it includes the wilful breach of an undertaking given to a court.

Therefore, the trial court failed to make a distinction between civil contempt and criminal contempt. A mere disobedience by a party to a civil action of a specific order made by the court in the suit is civil contempt for the reason that it is for the sole benefit of the CONT.CAS (C) 338/2019 Page 9 of 18 other party to the civil suit. This case remains to the extent that, in such a fact situation, the administration of justice could be undermined if the order of a competent court of law is permitted to be disregarded with such impunity, but it does not involve sufficient public interest to the extent that it may be treated as a criminal contempt. It was a clear-cut case involving private rights of the parties for which adequate and sufficient remedy had been provided under CPC itself, like attachment of the property and detention in civil prison, but it was not a case wherein the facts and circumstances warranted the reference to the High Court for initiating the proceedings for criminal contempt. xxx xxx xxx 30. In an appropriate case where exceptional circumstances exist, the court may also resort to the provisions applicable in case of civil contempt, in case of violation/breach of undertaking/judgment/order or decree. However, before passing any final order on such application, the court must satisfy itself that there is violation of such judgment, decree, direction or order and such disobedience is wilful and intentional. Though in a case of execution of a decree, the executing court may not be bothered whether the disobedience of the decree is wilful or not and the court is bound to execute a decree whatever may be the consequence thereof. In a contempt proceeding, the alleged contemnor may satisfy the court that disobedience has been under some compelling circumstances, and in that situation, no punishment can be awarded to him. [See Niaz Mohammad v. State of Haryana [(1994) 6 SCC332 , Bank of Baroda v. Sadruddin Hasan Daya [(2004) 1 SCC360: AIR 2004 SC942 and Rama Narang v. Ramesh Narang [(2006) 11 SCC114: AIR 2006 SC1883 .]. Thus, for violation of a judgment or decree provisions of the criminal contempt are not attracted. xxxx xxxx xxxx 34. In view of the above discussion, as such proceedings were not maintainable, the order of reference itself was not warranted. It also becomes crystal clear that the appellant had CONT.CAS (C) 338/2019 Page 10 of 18 been subjected to unfair procedure from the institution of the suit itself. The suit had been disposed of in great haste without following the procedure prescribed in CPC. Once the suit has been

decreed, the court could not entertain the application under Order 39 Rule 2-A CPC as the suit had already been decreed and such an application is maintainable only during the pendency of the suit in case the interim order passed by the court or undertaking given by the party is violated. In the instant case, no interim order had ever been passed and the undertaking given by the appellant-defendant not to dispossess the said plaintiff culminated into a final decree and thus, if any further action was required, it could be taken only in execution proceedings. There has been manifest injustice in the case and the doctrine of ex debito justitiae has to be applied in order to redress the grievances of the appellant-defendant. The judgment and order impugned cannot be sustained under any circumstance. [Emphasis Supplied].

14. In my view, the respondents reliance on this judgment is entirely misplaced. The Court was principally concerned with the maintainability of proceedings for criminal contempt, and not civil contempt. In fact, paragraph 30 of the judgment shows that civil contempt is in a different category and, provided the required ingredients are established, remains available. The possibility of an alternative remedy under Order XXXIX Rule 2A is not, therefore, a bar to jurisdiction, or a point which goes to maintainability, but a factor which deserves due consideration in deciding whether or not to proceed under the Act, in the facts and circumstances of a particular case.

15. The judgment of the Allahabad High Court cited by Ms. Taneja in Parmender Kaur (supra) is also of little assistance. In that case, factual enquiry was required as to the possession of a parcel of land and it was held CONT.CAS (C) 338/2019 Page 11 of 18 that the Trial Court was in the best position to conduct that enquiry. The dismissal of the proceedings under the Act with liberty to approach the Civil Court under Order XXXIX Rule 2A was made in that factual situation, and it was expressly recorded that the Court did possess the jurisdiction under Section 10 but declined to exercise it in the facts of the case.

16. The judgment of this Court in Govind Sarda (supra) followed the Division Bench judgment in Dr. Bimal Chandra Sen vs. Kamla Mathur, ILR (1982) II Delhi 407. In that Division Bench judgment, the case was one of civil contempt against

one of the respondents, and criminal contempt against the other. While explaining the distinction between the two, the Division Bench concluded as follows:-

"42. The mere disobedience by a party to a civil action of a specific order of the court made on him in the suit is civil contempt. The order is made at the request and for the sole benefit of the other party to the civil suit. There is an element of public policy the administration of justice would be undermined if the order of any court of law could be disregarded with impunity, but no sufficient public interest is served by punishing the offender if the only person for whose benefit the order was made chooses not to insist on its enforcement. [A.G. v. Times Newspapers Ltd., (1973) 3 WLR298(26) at page 316 per Lord Diplock]. in punishing civil contempt, since 43. All that is at stake in the present case is the private rights of the parties. For defiance of the courts under the remedy is provided in the Code. It is attachment and detention in civil prison. For deliberate defiance of interim injunctions the court can send the contemner to prison. If the subordinate courts cannot enforce their injunctions the order virtually would be worthless. It is the deterrent effect of an injunction plus the liability to imprisonment for its breach which is the remedy. The subordinate judge can punish the defendant if he finds her CONT.CAS (C) 338/2019 Page 12 of 18 to be guilty in flagrantly defying the order which he had made. Contumacious disregard and contemptuous disobedience if the orders of the court have always been visited with committal to prison and attachment. Against the husband no case of criminal contempt has been made out. It seems to me that the application is wholly misconceived. 17. The judgments in Dr. Bimal Chandra Sen (supra) and in Govind Sarda (supra) were followed by another learned Single Judge in Anand Kumar Deepak Kumar (supra) and an application under the Act was dismissed as not maintainable.

18. The judgments in Govind Sarda (supra) and Anand Kumar Deepak Kumar (supra) were considered in Shobhna Shrestha (supra), wherein a learned Single Judge of this Court expressed the view that the existence of an effective and alternative remedy under Order XXXIX Rule 2A cannot altogether efface or wipe out the powers of the High Court under the general law of contempt under Article 215 of the Constitution. A more recent Division Bench decision in Raj Pal Yadav (supra) has also held proceedings under the Act and Order XXXIX Rule 2A to be

complementary, and not mutually exclusive.

19. In view of the later judgments cited above, and particularly paragraph 30 of Kanwar Singh Saini (supra) and the Division Bench judgment in Raj Pal Yadav (supra), the jurisdiction of this Court under the Act cannot be held to be ousted by the existence of an alternative remedy under Order XXXIX Rule 2A of the CPC. Kanwar Singh Saini (supra) makes it clear that there may be cases where the Court considers it necessary to exercise its jurisdiction, even when an order is otherwise executable. CONT.CAS (C) 338/2019 Page 13 of 18 20. The question is then whether, in the facts of the present case, this Court ought to entertain the proceedings or to relegate the petitioner to proceedings before the Family Court under Order XXXIX Rule 2A. The special circumstances which persuade me that proceeding in this petition is an appropriate course is that the present case involves the question of jurisdiction of a foreign Court vis--vis the Family Court in India, and that practically no disputed question of facts arise, so far as the conduct of the parties is concerned. There is of course some dispute as for the effect of the orders passed and the context in which the respondent has proceeded in the New Jersey Court but the determination of those controversies does not require any elaborate trial or evidence.

21. The second objection raised by Ms. Taneja concerns the merits of the order passed by the Family Court. She submits that the same has been obtained by fraud as the petitioner misrepresented that the divorce proceedings filed by her were prior in time to those filed by the respondent in New Jersey. The correctness or otherwise of the injunction order passed by the Family Court is not the subject matter of these proceedings. The respondents application under Order XXXIX Rule 4 for vacating the injunction is pending. He has raised these very contentions in that application, and I do not propose to pre-empt the decision of the Family Court in this respect. However, for the present purposes, this argument is also not of a great relevance. It is not upto a party suffering an injunction to decide whether or not the injunction was rightly granted. The respondents characterization of the order as a nullity does not detract from this position. The only course open to a person aggrieved by an order is to seek its vacation [as the respondent has done]. or to challenge it. CONT.CAS (C) 338/2019 Page 14 of 18 22. In another

matrimonial case involving proceedings in different jurisdictions, the Supreme Court in Surya Vadanan vs. State of Tamil Nadu (2015) 5 SCC450held that one cannot decide whether the order is correct or not, for the purposes of compliance. It has been stated as follows: - 54. As has been held in Arathi Bandi [Arathi Bandi v. Bandi Jagadrakshaka Rao, (2013) 15 SCC790: (2014) 5 SCC (Civ) 475]. a violation of an interim or an interlocutory order passed by a court of competent jurisdiction ought to be viewed strictly if the rule of law is to be maintained. No litigant can be permitted to defy or decline adherence to an interim or an interlocutory order of a court merely because he or she is of the opinion that that order is incorrect-that has to be judged by a superior court or by another court having jurisdiction to do so. It is in this context that the observations of this Court in Sarita Sharma [Sarita Sharma v. Sushil Sharma, (2000) 3 SCC14:

2000. SCC (Cri) 568]. and Ruchi Majoo [Ruchi Majoo v. Sanjeev Majoo, (2011) 6 SCC479: (2011) 3 SCC (Civ) 3

(2011) 2 SCC (Cri) 1033]. have to be appreciated. If as a general principle, the violation of an interim or an interlocutory order is not viewed seriously, it will have widespread deleterious effects on the authority of courts to implement their interim or interlocutory orders or compel their adherence. Extrapolating this to the courts in our country, it is common knowledge that in cases of matrimonial differences in our country, quite often more than one Family Court has jurisdiction over the subject-matter in issue. In such a situation, can a litigant say that he or she will obey the interim or interlocutory order of a particular Family Court and not that of another?. Similarly, can one Family Court hold that an interim or an interlocutory order of another Family Court on the same subject-matter may be ignored in the best interests and welfare of the child?. We think not. An interim or an interlocutory is precisely what it is-interim or interlocutory- CONT.CAS (C) 338/2019 Page 15 of 18 and is always subject to modification or vacation by the court that passes that interim or interlocutory order. There is no finality attached to an interim or an interlocutory order. We may add a word of caution here-merely because a parent has violated an order of a foreign court does not mean that that parent should be penalised for it. The conduct of the parent may certainly be taken into account for passing a final order, but that ought not to have a penalising result. [Emphasis

Supplied]. The observations of the Court regarding violation of an interlocutory order were made in the context of an order of a foreign Court, but are, in my view, equally applicable to orders passed by domestic Courts.

23. This same position has, in fact, been settled in several judgments of the Supreme Court. In Prithawi Nath Ram vs. State of Jharkhand & Ors.,(2004) 7 SCC261 it was held as follows :-

"8. If any party concerned is aggrieved by the order which in its opinion is wrong or against rules or its implementation is neither practicable nor feasible, it should always either approach the court that passed the order or invoke jurisdiction of the appellate court. Rightness or wrongness of the order cannot be urged in contempt proceedings. Right or wrong, the order has to be obeyed. Flouting an order of the court would render the party liable for contempt. While dealing with an application for contempt the court cannot traverse beyond the order, non-compliance with which is alleged. In other words, it cannot say what should not have been done or what should have been done. It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. The same would be CONT.CAS (C) 338/2019 Page 16 of 18 impermissible and indefensible. In that view of the matter, the order of the High Court is set aside and the matter is remitted for fresh consideration. It shall deal with the application in its proper perspective in accordance with law afresh. We make it clear that we have not expressed any opinion regarding acceptability or otherwise of the application for initiation of contempt proceedings. To the same effect is the judgment in Union of India and Ors. vs. Subedar Devassy PV, (2006) 1 SCC613 Subsequently, in Commissioner, Karnataka Housing Board vs. C. Muddaiah (2007) 7 SCC689 the Supreme Court reiterated the aforementioned principle, and stated as follows :-

"32. We are of the considered opinion that once a direction is issued by a competent court, it has to be obeyed and implemented without any reservation. If an order passed by a court of law is not complied with or is ignored, there will be an end of the rule of law. If a party against whom such order is made has

grievance, the only remedy available to him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been issued by the court. In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice. The argument of the Board, therefore, has no force and must be rejected. 24. The third objection raised by Ms. Taneja is also premature. Whether or not the petitioner had submitted to the jurisdiction of the New Jersey Court is a matter which might weigh in the mind of the Family Court in deciding the application under Order XXXIX Rule 4. Ms. Taneja has also not been able to substantiate her contention that the proceedings in New Jersey had to be proceeded with by the respondent, failing which he would CONT.CAS (C) 338/2019 Page 17 of 18 have been held to be in default and the case would have been dismissed. To establish the contention that the respondent was compelled in law to proceed in New Jersey, it was incumbent upon him to produce some material to the effect that the New Jersey Court could not or did not grant an adjournment on the ground that the respondent was disabled from proceeding, by virtue of the Family Court's order. There is no evidence to this effect and in fact, to the contrary are the contentions of the respondent before the New Jersey Court, where he has opposed the petitioners request for an adjournment.

25. In view of the aforesaid, the respondent's contentions regarding the maintainability of the present proceedings are rejected. However, the contentions of the parties in the application under Order XXXIX Rule 4 are reserved.

26. In view of the fact that the petitioner has succeeded in demonstrating, prima facie, that the respondent has committed contempt of the order dated 08.02.2019, passed by the Family Court, Dwarka, he is called upon to show cause as to why he should not be punished under Section 10 read with 2(b) of the Contempt of Courts Act, 1971. The matter be placed for further directions, including with regard to the personal appearance of the respondent, before the Roster Bench dealing with civil contempt petitions on 08.07.2019. JUNE06, 2019 pv PRATEEK JALAN, J.

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