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Prof. C. M. Mathew vs Santhoshkumar

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Court : Kerala

Decided On : Feb-01-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : Con.Case(C)/2676/2022

Appellant : Prof. C. M. Mathew

Respondent : Santhoshkumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN WEDNESDAY, THE 1ST DAY OF FEBRUARY 2023 / 12TH MAGHA, 1944 AGAINST THE JUDGMENT IN WP(C) 27046/2021 OF HIGH COURT OF KERALA PETITIONER/WRIT PETITIONER: PROF. C. M. MATHEW AGED 78 YEARS S/O MATHAI, CHERUSSERIL, MAVILA, AREEPLACHI P.O., PUNALUR, PIN - 691333 BY ADV A.R.DILEEP RESPONDENT-CONTEMNOR/3RD RESPONDENT IN THE WRIT PETITION: SANTHOSHKUMAR (AGE AND FATHER OF THE RESPONDENT IS NOT KNOWN TO THE PETITIONER) TAHSILDAR, TALUK OFFICE, PUNALUR, PIN - 691333 SRI.JACOB E SIMON -GP THIS CONTEMPT OF COURT CASE (CIVIL)

HAVING COME UP FOR ADMISSION ON 01.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Even though the respondent submits that the directions in the judgment have been fully complied with by issuing an order dated 16.01.2023, it is conceded by the learned Government Pleader - Jacob E.Simon, that petitioner had not been heard before it was passed.

2. Going by the directions in the judgment, the respondent could have issued an

order only after affording an opportunity of

being heard to the petitioner; and if this has not been done, certainly, the new order issued by him cannot find my favour.

3. Presumably, being aware of the mind of

this Court as afore, the learned Government Pleader submitted that, if this Court is so inclined, the order dated 16.01.2023 will stand withdrawn and a fresh one issued, after hearing the petitioner and in full compliance with the directions in the judgment.

4. Sri.A.R.Dileep - learned counsel for

the petitioner, argued that since his client has not been heard, the new order cannot bind him, particularly because it contains certain conclusions which are untenable.

5. When I consider the afore submissions,

it is without doubt that the suggestion now made by the learned Government Pleader is the most apposite for the respondent because, if he had issued the order dated 16.01.2023 without hearing the petitioner, then he has exposed himself to an action for contempt.

6. In the afore circumstances, I record the

submissions of Sri.Jacob E.Simon - learned Government Pleader, that the order issued by the respondent dated 16.01.2023 will stand withdrawn; and that a new one, after hearing the petitioner, will be issued, within a period of one month from the date of receipt of a copy of this judgment.

7. Needless to say, the liberty to the petitioner to approach this Court with a fresh contempt case, if the afore undertaking is violated, is always left open. This contempt case is thus closed.

Sd/- DEVAN RAMACHANDRAN JUDGE SAS APPENDIX OF CON.CASE(C) 2676/2022 PETITIONERS ANNEXURES Annexure 1 CERTIFIED COPY OF JUDGMENT DATED 05.01.2022 OF THE HONOURABLE HIGH COURT IN W. P. (C) NO. Annexure 2 A TRUE COPY OF RECEIPT DATED 18.10.2022 GIVEN FROM THE OFFICE OF THE RESPONDENT TO THE PETITIONER Annexure 3 A TRUE COPY OF COMMUNICATION NO. B13-9853/21 DATED 16.01.2023 FROM THE RESPONDENT

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