

Devakar Vs. B.P. Pandey

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Court : Allahabad

Decided On : Apr-08-1990

Reported in : 1990CriLJ1748

Judge : Ravi S. Dhavan, J.

Acts : [Constitution of India](#) - Article 215

Appeal No. : Civil Misc. Contempt Petn. No. Nil of 1990

Appellant : Devakar

Respondent : B.P. Pandey

Advocate for Pet/Ap. : Rajesh Tewari, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Ravi S. Dhavan, J.

1. The petitioner husband and his wife Meera Jain have a marital discord and this is the subject matter of a divorce proceeding pending before the 8th Additional District and Sessions Judge, Muzaffarnagar. The proceedings are stretching and do not conclude. On this aspect in writ petition No. 10576 of 1989 : Devakar v. 8th

Additional District & Sessions Judge, Muzaffarnagar, was disposed of and this court made observations thus:--

'However, without entering into the merits and without inviting a counter-affidavit from the opposite party we dispose of this petition by directing that the suit may be disposed of within four months from the date a copy of this order is produced'.

Sd. R.M.S.

Sd. R.P.S.

3-5-1989'

2. Since then the suit appears to be dragging on and has given an occasion to the husband petitioner to move this contempt petition to seek issue of notice to the 8th Additional District & Sessions Judge, Muzaffarnagar that he is violating the terms of this order as he was meant to have disposed of the suit within four months but he has not done so.

3. If the delay was of the court below, this court would have called for the explanation of the lower court. On the contrary the situation is not such that this Court can question the court below as there is no situation which this court does not face which the 8th Additional District & Sessions Judge is not facing and if the proceedings were to be closed within the time stipulated then there should have been normalcy in the said proceedings. Unfortunately, the record of the order sheet shows normalcy and continuity of proceedings were not available to the Court. Some situations have a cause and the cause has its effect. This contempt petition is the effect of the cause. Between the lawyers being busy and the courts being closed upon strikes both aspects being noticed in the order sheet of the court below, it is virtually next to impossible for any court, to keep a time schedule. The order sheet is writ large with proceedings collapsing as a result of strikes in courts. This inevitably means that while one party may be harassed in proceedings, another may be taking advantage of it. Who is to blame? This is what happens when a strike strikes the courts. In these circumstances the judge cannot be blamed that the proceedings are stretching. The time given by this Court during

which the case was to conclude, was for a normal situation.

4. Under Article 215 of the Constitution this Court does not cease to be a court of record. While this Court is certain that no contempt has been committed, yet the learned 8th Additional District & Sessions Judge, will ensure that as far as possible proceedings continue so that the spirit of the order and the observations of this Court in the writ petition aforesaid is not compromised.

5. As far as the present contempt petition is concerned, on the circumstances on record, it is misplaced and out of context. It is dismissed accordingly.

6. A copy of this order may be given to learned counsel for the petitioner within three days.

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