

Anubha Vs. Vikas Agrawal

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Court : Delhi

Decided On : Jul-03-2000

Reported in : 86(2000)DLT713; 2000(56)DRJ452

Judge : Vikramajit Sen, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Sections 151

Appeal No. : I. As. 3684 of 2000. 4715 of 2000 in S. No. 1966 of 1999

Appellant : Anubha

Respondent : Vikas Agrawal

Advocate for Def. : Mr. Rakesh Dwivedi, Sr. Adv., ; Mr. Vikas Singh and ; Mr. V

Advocate for Pet/Ap. : Mr. A.S. Chandhiok, Sr. Adv.,; Mr. Hari and; Ms. Pooja Jain

Judgement :

ORDER

Vikramajit Sen, J.

1. By order dated March 9, 2000 the case had been adjourned to 1.5.2000, inter alia, for recording the Defendant's statement under Order X of the Code of Civil Procedure and for consideration of cause, if any, in respect of Contempt of Court

proceedings. Earlier, by orders dated 5.11.1999, the Defendant had been restrained from proceeding further in the Superior Court, State of Connecticut, U. S. A. for a period of thirty days. Those Orders had not been complied with. The Defendant had agitated the matter in Appeal before the Division Bench on 9.3.2000. On 9.5.2000 this Appeal was withdrawn on the grounds that an application for recalling the Order dated 9th March, 2000 would be filed before this Court. I. A. 3684 of 2000 was filed on 28.4.2000 seeking exemption from personal appearance of the Defendant on 1.5.2000. The ground on which this was sought to be sustained was that the Defendant was suffering from certain ailment and had been advised not to travel. Mr. A.S. Chandiok, Learned Senior Counsel for the Plaintiff had, however, submitted that this ground had not been agitated before the learned Division Bench.

2. Mr. Rakesh Dwivedi, Learned Senior Counsel for the Defendant, had, however, submitted that without entering into this controversy, the Defendant would appear before this Court within the period freshly allowed to him for this purpose. It was his submission that the anxiety and apprehension in the mind of the Defendant was that on his arrival in India, either he may be embroiled in further litigation, or the present litigation specially under Section 498-A of Indian Penal Code would be fought with aggravated vigour with a view to ensuring that the Defendant would be unable to return to his employment in America. He had further argued that no useful purpose would be served if the Defendant were to lose his job in the U.S.A. The direct consequence would be the frustrating of the Plaintiff's claim for maintenance. He further prayed that the Defendant be granted the protection of this Court so that he could appear before it without fear of being unable to rejoin his place of employment. He had relied on various decisions of the Apex Court to press his contention that the powers of this Court were not circumscribed in any manner and were ample and all pervading. He had also stated that he would not press I. A. 4715/2000 in these circumstances.

3. The order and protection prayed for by the learned Senior counsel for the Defendant is not a novel one. The Apex Court has on several occasions protected the parties on the lines pleaded by Mr. Rakesh Dwivedi, Learned Senior Counsel for the Defendant. The Court has also expressed the wisdom in desisting from

cutting off the nose to spite the face.

4. In these circumstances the Defendant is directed to appear before this Court on 24.8.2000. He shall not be arrested pursuant to any complaint filed by the Plaintiff or F.I.R. pending or to be registered in respect of his matrimonial disputes with the Plaintiff without the leave of this Court.

5. I. As. 3684/2000 and 4715/2000 stand disposed of accordingly.

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