

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cont. Case (Cvl.) No.629 of 2026

Jyoti Tiwary

....

Petitioner

Versus

1. The State of Jharkhand

2. Shri Subhash Kumar Singh, S/o Late Jagnarayan Singh

.....

Opp. Parties

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner

: In-Person

Mr. Soumitra Baroi, Advocate

Mr. Rakesh Kumar No.2, Advocate

For O.P. No.2

: Mr. Nawin Kr. Singh, Advocate

04/Dated: 09.09.2026

1. The instant petition has been filed to initiate the proceeding for contempt against the opposite party no.2 for his willful and deliberate disobedience of the order dated 20.09.2024 passed in C.M.P. No.533 of 2024 by this Court.
2. Before proceeding to pass any further order, it becomes necessary to advert to certain factual aspects forming the substratum of the present contempt proceedings.
3. The factual background, in brief, is that the petitioner had solemnized marriage with the opposite party no. 2, and from the said wedlock a male child was born on 16.07.2009. The marriage, however, came to be dissolved on 01.03.2024. Subsequent thereto, the issue of custody of the minor child was raised by the opposite party no. 2 by filing an application under the relevant provisions of the Guardians and Wards Act, which stood registered as Original Suit No. 539 of 2023.
4. The petitioner had been called upon by issuing notice and at that

moment, a petition under Order VII Rule 11 of the Civil Procedure Code (herein referred as CPC) has been filed by the petitioner before the learned Family Court on the ground of lack of territorial jurisdiction to give a declaration on the issue of custody of the minor child.

5. The learned Family Court has considered the petition filed under Order VII Rule 11 CPC but has dismissed the same vide order dated 10.04.2024 on the ground that the issues raised by the respondent, petitioner herein, are the mixed question of law and facts and the said issue will only be decided after adducing the evidence of the parties.
6. Thereafter, the petitioner preferred a Civil Miscellaneous Petition, being C.M.P. No. 533 of 2024, before this Court under Article 227 of the Constitution of India, assailing the order dated 10.04.2024.
7. The respondent, opposite party no.2 herein had appeared and contested the case, thereafter, the order was passed by this Court on 20.09.2024 in C.M.P. No.533 of 2024 whereby the order dated 10.04.2024 passed by the Addl. Principal Judge, Addl. Family Court-II, Ranchi in O.M. Case No.539 of 2023 had been quashed and set aside with liberty to respondent husband to approach the court having its jurisdiction for ready reference, the relevant paragraphs of the order dated 20.09.2024 are being quoted as under: -

“68. Further, the part of the admission of the respondent husband has also not been considered, even though, the same was

brought to the notice of the concerned learned court and very surprisingly when no consideration has been given in either way, therefore, this Court is of the view that the error is apparent on the face of the order. Hence, interference to the impugned order is required.

69. Accordingly, the order dated 10.04.2024 passed by the Addl. Principal Judge, Addl. Family Court-II, Ranchi in O.M. Case No.539 of 2023 is, hereby, quashed and set aside.

70. In the result, the instant petition stands allowed.

71. Since, the order has been quashed and set aside and as such, as per law, the respondent husband is at liberty to approach the court having its jurisdiction.”

8. The present petition has been filed on the pretext of the fact that the petition filed under Order VII Rule 11 of the CPC has been allowed by this Court by reversal of the order of rejection of the petition filed under Order VII Rule 11 of the CPC by the learned Addl. Family Judge-II, Ranchi by holding the lack of territorial jurisdiction and the liberty had been granted to respondent/husband to approach the Court having the jurisdiction.
9. The reason for passing such order was the admission on the part of opposite party no.2, who has admitted the fact accepting the territorial jurisdiction to file the suit before the East District, Karkardooma Court, Delhi wherein also the petition was filed under Order VII Rule 11 of the CPC for rejection of the original suit on the ground of lack of territorial jurisdiction.
10. The specific finding was recorded in the said original suit on the basis of the fact that the minor son ordinary resides at Shahadra, and on that ground, the aforesaid original suit was

withdrawn with a liberty to prefer a fresh petition before the Court having its jurisdiction, i.e., Shahdra at Delhi.

11. The aforesaid fact has been taken note by this Court in the order dated 20.09.2024 as under paragraph-55 & 56, which are being referred as under: -

“55. The fact about taking the recourse of sub-section (3) of Section 9 has already been availed by the respondent husband when the similar petition was filed before the court at Karkardooma at Delhi and on objection made by filing a petition under Order 7 Rule 11 of the CPC admitting the fact about residence of the minor at Shahdra at Delhi, the said petition being G.P. No.45/2021 was withdrawn with a liberty to file a suit before the Court having its jurisdiction. The said order has been quoted and referred hereinabove.

56. The aforesaid therefore suggests and clarifies that the respondent husband is admitting that the minor son ordinarily resides at Shahdra, Delhi and that is the reason, he has withdrawn the said petition with a liberty to prefer a fresh petition before the Court having its jurisdiction, i.e., Shahdra at Delhi but instead of approaching the Court at Shahdra, Delhi, a petition has been filed before the Ranchi Judgeship, therefore, legal position regarding relegating the parties to the trial for the purpose of conducting any inquiry, which is mixed question of law and fact, is also to be appreciated in the facts and circumstances of the case in view of the admitted fact of admission of the ordinary residence of the minor, as has been admitted by the respondent husband at Shahdra, Delhi, then, where is the question of relegating the parties for the trial considering the issue of jurisdiction of the court to be a mixed question of law and facts.”

12. The petitioner has been constrained to institute the present proceedings on the premise that the application filed under Order VII Rule 11 of the Code of Civil Procedure was allowed by this

Court vide by holding that the learned Family Court lacked territorial jurisdiction and liberty was simultaneously reserved to the respondent-husband to approach the competent Court having jurisdiction upon, but even then, the presiding judge, i.e., the Principal Judge, Addl. Family Judge-II, Ranchi proceeded with the matter.

13. It is the specific case of the petitioner that, notwithstanding the fact that the order dated 10.04.2024 stood quashed and set aside, thereby rendering it explicit that the order passed under Order VII Rule 11 of the Code of Civil Procedure would, for all practical purposes, be deemed non-existent and no application could be said to be pending before the concerned Court, the Court has nonetheless proceeded further in the matter. To substantiate this assertion, reliance has been placed upon the subsequent order dated 24.02.2025, which has been brought on record as Annexure-2.

14. This Court has heard the party-in-person on 05.08.2026 and has passed the following order, which is being referred as under: -

“03/Dated: 05th August, 2026

1. The party in-person, the petitioner, is present physically in the Court and although she has engaged counsel to represent her case but she has sought for leave of this Court to address the Court in-person.

2. Considering the submission, such leave is granted to the party-in-person, the petitioner, in the ends of justice.

3. This Court was hearing the matter on 08.07.2026 and on that date, Mr. Nawin Kr. Singh, learned counsel sought for time to file

vakalatnama to represent the opp. party no.2 and accordingly, the matter was adjourned on that date to be listed on 05.08.2026, i.e., today.

4. Vakalatnama has been filed and today, Mr. Nawin Kr. Singh, learned counsel is present to represent the opp. party no.2.

5. It is a case where the proceeding has been sought to be initiated against the opp. party no.2 for disobedience of the order dated 20.09.2024 passed in C.M.P. No. 533 of 2024.

6. It is the grievance of the petitioner that a suit being Original Suit (Guardianship) No.539 of 2023 had been preferred for seeking custody of the minor child by the opp. party no.2. The petitioner had filed an application under Order VII Rule 11 of CPC read with Section 9 of the Guardians and Wards Act, 1890 but the same was rejected on 10.04.2024.

7. The petitioner against the said order of rejection dated 10.04.2024 passed by the learned Additional Principal Judge, Addl. Family Court II, Ranchi had preferred a petition by invoking the jurisdiction conferred under Section 227 of the Constitution of India being C.M.P. No. 533 of 2024.

8. It has been contended that after giving the detailed hearing to the parties, the order dated 10.04.2024 passed in Original Suit (Guardianship) No.539 of 2023 had been quashed and set aside vide order dated 20.09.2024 with the liberty to the opp. party no.2/respondent to approach the court having its jurisdiction.

9. It is the case of the petitioner that even though the order dated 10.04.2024 has been quashed and set aside which itself clarifies that the order which was passed under Order VII Rule 11 of CPC for all practical purposes it will be deemed that no application is pending before the concerned Court but the Court has proceeded and to substantiate the same, the order dated 24.02.2025 has been appended as Annexure-2.

10. It has been submitted that the Court has proceeded as if there is no order passed by this Court under Article 227 of the Constitution of India on 20.09.2024 and by taking note of non-appearance of the petitioner on 06.01.2025, 17.02.2025 and on 24.02.2025, view has been

expressed that the petitioner is having no interest in the proceeding of the case, as such, the Original Suit No. 539 of 2023 had been dismissed for default which is absolutely an incorrect order and is in the teeth of the order passed by this Court under Article 227 of the Constitution of India.

11. It has further been contended that on 03.12.2025 one civil review petition was filed by the opp. party no.2 before this Court being Civil Review No.39 of 2025 which was dismissed as withdrawn on the prayer made by the learned counsel for the opp. party no.2. The copy of the said order has been placed before this Court by supplying the same to the learned counsel for the opp. party no.2.

12. It has been contended that the moment the order dated 10.04.2024 has been quashed and set aside which was the reversal of the order passed under Order VII Rule 11 of CPC, then the Court, i.e., the Court of learned Additional Principal Judge, Family Court, Ranchi will have no jurisdiction and the same cannot be said to be a pending proceeding before the concerned Court.

13. It has further been pointed out that after the aforesaid case having been dismissed for non-prosecution vide order dated 24.02.2025, the restoration application has been preferred for restoration of the Original Suit No. 539 of 2023, however, it is pending and no order has been passed.

14. The petitioner, who is appearing in-person, has submitted that once the jurisdiction of the Court of learned Additional Principal Judge, Family Court has already been decided in exercise of power conferred under Article 227 of the Constitution of India, then, the concerned court ought not to have proceeded with the proceeding but not only the proceeding has been kept pending, the orders are also being passed though the liberty has already been granted to the opp. party/respondent to approach the court having jurisdiction.

15. In view of the aforesaid facts, the present contempt case has been filed.

16. This Court, before passing further necessary order, is of the view that a report from the learned Judicial Commissioner is

required to be called for.

17. Accordingly, let a report in this regard be called for from the learned Judicial Commissioner.

18. Let the original record of the case be also called for from the concerned court.

19. Let this case be listed on 09.09.2026.”

- 15.** From the tenor of the aforesaid order, it is manifest that, in the backdrop of the factual matrix delineated hereinabove, the petitioner, appearing in person, has constrained this Court to direct that a report be requisitioned from the learned Judicial Commissioner together with the original record of the case, and to list the matter on 09.09.2026 for further consideration.
- 16.** In the compliance of the aforesaid order, the report has been filed and same has been received and available at flag-R of the petition.
- 17.** This Court has carefully perused the report, which has been prepared by the learned Additional Principal Judge, Family Court-II, Ranchi and addressed to the Judicial Commissioner, Ranchi. The said report records that, upon taking note of the order of this Court dated 20.09.2024, the record of the case has been consigned to the district record room.
- 18.** The petitioner, appearing in person, has submitted that mere consigning of the case to the record room cannot be regarded as a sufficient exercise of judicial duty. On the contrary, it has been urged that such conduct demonstrates misuse of judicial process by the concerned Presiding Judge, allegedly in connivance with

opposite party no. 2, thereby raising a serious question touching upon propriety and fairness in the administration of justice.

- 19.** It has been submitted that once this Court had allowed the petition under Order VII Rule 11 of the Code of Civil Procedure, there remained no occasion for the learned Presiding Judge to keep the matter pending. The factual matrix of the present case, as borne out from the record of proceedings, makes it evident that continuation of the suit thereafter was wholly unwarranted.
- 20.** In order to duly appreciate the submissions advanced, this Court has examined the record of the Original Suit, which had been summoned pursuant to the order dated 05.08.2026.
- 21.** It is pertinent to note, upon perusal of the order-sheet of Original Suit No. 539 of 2023, that the date of the order passed by this Court in C.M.P. No. 533 of 2024 has been erroneously recorded as 23.08.2024 instead of 20.09.2024. In fact, on 23.08.2024, the matter had only been reserved for orders upon conclusion of hearing.
- 22.** It is evident from the perusal of order-sheet of Original Suit No. 539 of 2023 that even though, this Court has passed an order on 20.09.2024 and the said order was communicated to the concerned Court, but the case was not closed in compliance to the order dated 20.09.2024, rather, the proceeding has been drawn. The particular order which needs to be referred herein, the order drawn by the presiding judge is dated 04.10.2024, wherein, the reference of the receipt of the order dated 23.08.2024 (instead

of 20.09.2024) passed in CMP No.533 of 2024 has been referred, for ready reference, the order dated 04.10.2024 is being referred as under: -

*“Received Memo No.3026-B dt. 30-9-24 along with the copy of order dt. 23-8-24 from Hon’ble Jharkhand High Court Ranchi passed in C.M.P. No.533/24 in which Hon’ble court have been pleased to pass the order dt 10-4-24 passed by the Addl. P. Judge Family Court II Ranchi in O.M. 539/23 is hereby quashed and set side. In the result the instant petition stands allowed. Since the order has been quashed and set aside and as such as per law the respondent is at liberty to approach the court having its Jurisdiction. Pending interlocutory application if and stands disposed of.
Seen keep it with record.”*

- 23.** Further, from the order-sheet particularly from the order dated 08.10.2024 it is evident that the order dated 20.09.2024 passed by this Court has been sent and kept on record and not only that, the copy of the said order was brought to the notice of the concerned court but, the learned presiding judge in stead of passing necessary order in terms of the said order dated 20.09.2024 had posted the matter on 21.11.2024 for written statement, for ready reference, the order dated 08.10.2024 is being referred as under:-

*“A copy of order dt 23-8-24 passed in C.M.P. No.533/24 has been filed on behalf of respondent.
No step of petitioner.
Put up on 21-11.24 for W/S.”*

- 24.** Further, it is evident from the order-sheet that, vide order dated 21.11.2024, the petitioner (respondent no. 2 herein) was directed to take steps, and the matter was thereafter posted on 06.01.2025 for filing of written statement.

25. It is very much surprising that even on 17.02.2025, the court has waited by keeping the matter pending and ultimately, on 24.02.2025, the suit was dismissed for non-prosecution.

26. It is indeed disturbing to note that although, the copy of the order passed by this Court dated 05.08.2026 passed in Cont. Case (Cvl.) No.629 of 2026 which has been acknowledged by drawing the order dated 13.08.2026 and on 18.08.2026, the case record has been restored to its original file vide order dated 17.08.2026 passed in Civil Misc. No-03/2026, for ready reference, both the orders dated., i.e. order dated 13.08.2026 and order dated 18.08.2026 are being referred as under: -

“13-8-26 Received Memo No.3842-A dt 11-8-26 along with true copy of order dt 5-8-26 from Hon’ble Jharkhand High Court Ranchi passed in Cont. Case (Civil) No.629/26 for information reminder and necessary compliance, send the status report and original record of O.S 539/23 seen. Office is directed to complied the order at once. Keep with the record.

18.08.2026. This case record has been restored to its original file vide order dated 17.08.2026 passed in Civil Misc. No-03/2026. O/c is directed to get it restored in the C/S and put up on date fixed, i.e. today.”

27. The learned presiding judge, however, after restoring the file has consigned the same by sending the record to the district record room on 18.08.2026 by drawing an order to that effect.

28. The pivotal question that arises is why the learned Presiding Judge did not immediately act upon the order passed by this Court in C.M.P. No. 533 of 2024, rendered in exercise of the supervisory jurisdiction conferred under Article 227 of the Constitution of India.

29. This Court is conscious that, subsequent to the amendment of

the Code of Civil Procedure, the jurisdiction under Article 227 of the Constitution of India is two-fold in nature. First, it retains the original constitutional mandate of superintendence, and second, it encompasses the supervisory jurisdiction which has been conferred by virtue of the curtailment of revisional powers earlier vested under Section 115 of the Code of Civil Procedure.

- 30.** This Court, although, has exercised the jurisdiction conferred under Article 227 said to be supervisory jurisdiction in terms of the judgment passed by the Hon'ble Apex Court in the case of ***Radheyshyam & Anr. Vs. Chhabi Nath & Ors.***, reported in **(2015) 5 SCC 423**.
- 31.** It is pertinent to record that the order passed by this Court under Article 227 of the Constitution of India has not been assailed before any higher forum.
- 32.** The fact of the order dated 20.09.2024 passed in C.M.P. No. 533 of 2024 having attained finality stands admitted even by the learned counsel appearing for opposite party no. 2, who was present on the last date of hearing, in whose presence the report from the learned Judicial Commissioner was directed to be called for.
- 33.** The learned counsel appearing for opposite party no. 2 has not been able to furnish any justification for the continuation of proceedings even after the order passed by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.
- 34.** The learned presiding judge is holding the post at the rank of superior judicial service and being conscious with the constitutional

mandate of power of superintendence/supervisory under Article 227 of the Constitution of India and the order has been communicated with him but he has chosen not to close the proceeding by consigning the same, rather, asked the party by posting the matter on different dates for filing written statement.

35. The question that necessarily arises herein that when this Court has already adjudicated the matter on the ground of lack of jurisdiction, what authority remained with the learned Presiding Judge to proceed further and decide any issue in the suit. The continuation of proceedings in such circumstances is prima facie beyond jurisdiction and contrary to the binding order of this Court.

36. This Court, in view of the aforesaid, is of the view that the matter is to be dealt with in the Administrative Side and hence, the matter is being directed to be placed before Hon'ble the Chief Justice for taking appropriate decision.

37. It has been submitted to this Court by the petitioner appeared in-person that the opposite party no.2/respondent husband has accepted the issue of ordinary residence of the minor to be at Shahadra, Delhi and based upon that admission, he has withdrawn the said petition filed for custody of the minor with a liberty to file a petition before the Court having its jurisdiction, and he has withdrawn the suit by seeking liberty to prefer a suit afresh before the Court having its jurisdiction, i.e., the Court at Shahadra, Delhi but he has chosen to file an application before the Court in the judgeship of Ranchi.

38. It has further been submitted that, when this Court on 20.09.2024

passed its order taking note of the fact that the respondent had withdrawn the earlier suit, thereby accepting the issue of jurisdiction as mandated under Section 7 of the Guardians and Wards Act, 1890, and was granted liberty to institute a fresh proceeding before the competent Court at Shahdara, Delhi, the same was duly recorded while holding that the Judgeship at Ranchi lacked jurisdiction to entertain the matter. In such circumstances, it is urged that there was no occasion for the litigant concerned to pursue the matter before the Family Court at Ranchi after order dated 20.09.2024 and hence, the conduct of the litigant also warrants appropriate consideration by this Court.

- 39.** This Court is of the considered view that, in light of the misuse of judicial proceedings and the harassment caused to the petitioner, the imposition of exemplary costs upon opposite party no. 2 would be warranted. However, it would not be proper for this Court to impose such costs in the absence of opposite party no. 2, and therefore the matter shall be dealt with upon affording due opportunity of hearing.
- 40.** Accordingly, opposite party no. 2 is directed to appear in person on the next date of hearing and to show cause as to why exemplary costs should not be imposed upon him for the misuse of judicial proceedings and the harassment occasioned to the petitioner.
- 41.** Since opposite party no. 2 is being represented by Mr. Nawin Kumar Singh, learned counsel, he is directed to duly apprise his client of this order so as to ensure the physical appearance of opposite party no. 2 on the next date of hearing.

42. Accordingly, list this case on 16.09.2026.

(Sujit Narayan Prasad, J.)

09.09.2026
Rohit/-