

CLCON No. 531 of 2017

Hon'ble Sharad Kumar Sharma, J.

Mr. M. C. Kandpal, Senior Advocate assisted by Mr. Chitrarth Kandpal, Advocate for the petitioner.

Mr. T. A. Khan, Senior Advocate assisted by Mr. Vinay Bhatt, Advocate for the respondent.

This matter is heard through video conferencing. The petitioner in this present Contempt Petition is an appellant in Second Appeal No. 124 of 2017 Masroor Ahmed vs. Abdul Malik and another. The Second Appeal was admitted by the Co-ordinate Bench of this Court on 12.10.2017, an interim order was granted themselves directing the parties to maintain status quo qua possession. The appellant contending that there was an infringement of the said direction dated 12.10.2017 had filed this present contempt petition on 09.11.2017. Notices were issued to the respondent no.3 and the matter is taken up today.

This Court has posed a question to the counsel for the petitioner as to how the Contempt Petition would be maintainable under Section 12 of the Contempt of Courts Act, of 1971, particularly, when the proceedings of the Second Appeal are governed by the provision under Section 108 of the CPC and its exclusively happens to be a self contained civil proceedings and for an infringement of any interim direction issued in a civil proceedings, the remedy available would be as per provisions contemplated under the CPC etc. that is Order 39 Rule 2 A of the CPC. In such an eventualities this Court is of the view that for drawing a contempt proceedings by party to the proceedings in Second Appeal would not lie, hence, the Contempt Petition is dismissed with a liberty open to the petitioner to seek an appropriate remedy available to him in accordance with the provisions of the Civil Procedure Code before an appropriate Court.

Contempt petition is accordingly closed.

(Sharad Kumar Sharma, J.)