

ITEM NO.9

COURT NO.10

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. Nos. 61-65, 66-70 & 71-75/2014 in
Civil Appeal No(s).2637-2641/2013

SREEJA V

Appellant(s)

VERSUS

RAJESH PULIYANKALATH

Respondent(s)

(for directions and recalling the court's order dt. 15.10.2014 and office report)

ing Date: 03/02/2015 These applications were called on for hear today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s)

Appellant-in-person

For Respondent(s)

Mr. Venkita Subramoniam T. R., AOR
Mr. Rahat Bansal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

On 16th October, 2014, a Bench of this Court comprising Hon'ble Mrs. Justice Ranjana Prakash Desai and Hon'ble Mr. Justice N.V. Ramana recorded that they had made herculean efforts to settle the matter between the appellant and the respondent. It was also recorded that looking to the nature of the dispute between the parties and the question of law involved, Mr. V. Giri, learned senior counsel was requested to assist in the matter.

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Digitally signed by Sanjay Kumar
Date: 2015.08.27 12:34:25 IST
Reason:

It is further recorded that on 15th October, 2014, the appellant repeatedly interrupted Mr. Giri, Senior Advocate when he was making his submissions. Mr. Giri, Senior Advocate informed the Court that in his absence, the appellant had gone to his office and abused him. This fact was confirmed by Mr. Giri's juniors and Mr.

M.P. Vinod, Advocate-on-Record, who was present in the Court on 15th October, 2014. The Bench recorded its displeasure about the appellant's behaviour and regretted the inconvenience caused to Mr. Giri. Thereafter, the Bench relieved Mr. Giri, Senior Advocate of the onerous task that had been assigned to him.

The order dated 16th October, 2014 further goes on to

record that the order passed by the Court to produce the child of the parties to enable the respondent-husband to meet him was not obeyed by the appellant. To make matters worse, the appellant had tried to overreach the Court by circulating letters, one of which was addressed to Shri R.M. Lodha, former Chief Justice of India by Mr. Justice V.R. Krishna Iyer, former Judge, Supreme Court of India. On these letters, a copy was endorsed to Hon'ble Mrs. Justice Ranjana Prakash Desai and Hon'ble Mr. Justice N.V. Ramana. The address was written in hand and it appeared that it was actually sent by Mr. Justice V.R. Krishna Iyer.

The Bench deprecated this conduct and in view of what was recorded in the order dated 16th October, 2014 the Bench declined to take up the matter any further and requested Hon'ble the Chief Justice of India to pass appropriate orders regarding placing the matter before another Bench. It is under these circumstances the matter has now come up before us.

The order dated 16th October, 2014 reads as follows:

"This matter was listed before us on several occasions. The petitioner is appearing in person. Since, it arises out of a matrimonial dispute, we made Herculean efforts to settle it. At least on three occasions, we summoned the respondent who remained present. Learned counsel for the respondent pleaded that if some amount is fixed as permanent alimony, the matter can be settled but the petitioner has no desire to settle the matter.

This matter presents peculiar facts. While the petitioner-wife has obtained a decree of restitution of conjugal rights which has become final, the respondent-husband has obtained a decree of divorce which the petitioner has not challenged. Looking to the nature of the dispute and the question of law involved, we requested Mr. V. Giri, learned

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senior counsel, to assist the Court. Mr. Giri has not only ably assisted us but also given a written note which exhibits a balanced approach.

Yesterday, i.e. on 15.10.2014, when we were hearing Mr. V. Giri, learned senior counsel, the petitioner repeatedly interrupted him despite our warning. Mr. Giri told us that in his absence, the petitioner had gone to his office and abused him. This fact was confirmed by Mr. Giri's juniors and Mr. M.P. Vinod, advocate-on-record who was present in the Court yesterday. We record our extreme displeasure about the petitioner's behaviour. We are sorry to know that Mr. Giri, who was requested by us to assist this Court should be put in such embarrassing situation. We regret the inconvenience caused to Mr. Giri. We thank him for the assistance rendered by him and relieve him of this onerous task.

We are told by the respondent-husband that the petitioner has not allowed him to meet his child since 2005. We, therefore, directed the petitioner to bring the child, Master Aditya, to this Court but the petitioner has not brought him to this Court. The petitioner has disobeyed our orders. Not only has the petitioner disobeyed our orders, she has tried to overreach the court by circulating letters to our residence. The letters are purportedly addressed to Shri R.M. Lodha, Former Chief Justice of India by Mr. Justice V.R. Krishna Iyer, Former Judge, Supreme Court of India. On these letters, it is written by hand "CC : To Honourable Mrs. Justice Ranjana Desai" and "CC : To Hon'ble Mr. Justice N.V. Ramana". On the envelop, the address is written in hand and it is shown that it is sent by Justice V.R. Krishna Iyer.

We deprecate this conduct.

In the circumstances, we are not inclined to take up this matter. The matter be removed from our Board. We direct the Registry to place this matter before Hon'ble the Chief Justice of India for appropriate orders regarding placing

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it before appropriate Bench."

Today, we are required to deal with IA Nos.61-65 of 2014, 66-70 of 2014 and 71-75 of 2014. We commenced hearing the appellant at about 11.30 a.m. and the hearing continued till 12.45 p.m.

IA Nos.61-65 of 2014

The appellant has made two prayers in these applications, which are as follows:

- "(i) give direction to the respondent to furnish detailed address of his residence in Bangalore with three valid proofs: (i) Rental Agreement, (ii) Electricity Bill, (iii) Cooking Gas Bill within two days through his counsel.
- (ii) pass any such order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

Insofar as the first prayer is concerned, we see no reason to grant this prayer requiring the respondent to furnish his address in Bangalore with three valid proofs, such as rental agreement, electricity bill and cooking gas bill. The respondent has already furnished his address and no proof of its correctness is required. We have also given some other reasons below for not accepting this prayer. We, therefore, decline this prayer.

We are adverting to the second prayer since the appellant made a grievance of the non-consideration of a similar prayer in the Bombay High Court. This is apparent from the impugned judgment and order. As far as this prayer is concerned, the appellant submitted that we

should fix a date for compliance of the direction with regard to the first prayer and we should also direct that the appeals filed by the appellant should be heard expeditiously. Since we have declined the first prayer, viz., the address of the respondent with valid proofs, there is no reason to fix the date for compliance. As far as hearing of the appeals is concerned, we are of the view that it would be appropriate if the hearing of the appeals are expedited and we order accordingly. We make it clear that we are passing this order of expeditious hearing on the specific request of the appellant.

We may mention at this stage that the appellant has a

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decree for restitution of conjugal rights, which has not been challenged by the respondent. On the other hand, the respondent has a decree for divorce, which has not been challenged by the appellant. Under these circumstances, the requirement, if at all, of providing the residential address of the respondent would arise only on the decision of these appeals and it is for this additional reason that we are not inclined to grant the first relief prayed for by the appellant in these applications. If necessary, this prayer can be renewed and considered after the final hearing of the appeals.

Accordingly, IA Nos.61-65 of 2014 stand disposed of.

IA Nos.66-70 of 2014

The prayers made in these applications are as follows:

- "(i) Give direction to the employer of the respondent (working in ITC Infotech Bangalore) to attach 2/3rd of respondent's salary to the S/B A/c of the applicant having No.:084201503947 of ICICI Bank, Rohini, Delhi, under Order 21-1(b) and Section 60(1)(ia) read with Rule 48-A of Civil Procedure Code, 1908 and in the interest of justice to recover the arrears of Rs.4,30,000/-.
- (ii) Give direction to the respondent to deposit the maintenance amount of Rs.40,000/- per month to the S/B A/c of the applicant having No.:084201503947 of ICICI Bank, Rohini, Delhi under Order 21-1(b) of Civil Procedure Code, 1908, instead of sending courier as DD which is causing delayment.
- (iii) Pass any such order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

Insofar as the first prayer is concerned, we see no reason to attach 2/3rd salary of the respondent.

By an order dated 17th January, 2013, the appellant was directed to file an affidavit disclosing the total amount received by her as interim maintenance with effect from 02.12.2009. The respondent was also required to

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file an affidavit disclosing therein the total amount paid to the appellant after 02.12.2009.

The appellant has since filed an affidavit dated 7th February, 2013 in which she stated that she has received an amount of Rs.7,90,842/- from 02.12.2009 onwards. The affidavit does not disclose any arrears due to the appellant. On the contrary, the affidavit mentions that this amount includes the amount paid as per orders passed by this Court.

We are mentioning this fact only for the reason that the appellant insists that an amount of Rs.4,30,000/- is due to her as arrears of maintenance, but there is nothing on record or in the affidavit dated 7 th February, 2013 indicating any such arrears. There is also nothing to show how this figure has been arrived at.

Subsequently, on 18th March, 2013, this Court passed an order to the effect that till further orders, the respondent shall pay to the appellant and their child maintenance at the rate of Rs.40,000/- per month. The order dated 18 March, 2013 reads as follows:

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"We have heard the petitioner, who has appeared in person, and learned counsel for the respondent.

Leave granted.

Till further orders, the respondent shall pay to the petitioner (appellant) and the child maintenance at the rate of Rs.40,000/-(rupees forty thousand) per month.

The parties are allowed six weeks' time to file further affidavits."

There is no dispute that the amount in terms of the order dated 18th March, 2013 has been paid and is being regularly paid to the appellant from 1st April, 2013 onwards. The admitted position is that the amount from the date of the order, i.e., 18th March, 2013 till 31st March, 2013 has not been paid to the appellant. We, therefore, direct the respondent to pay an amount of Rs.20,000/- to the appellant towards maintenance for the period from 18th March, 2013 to 31st March, 2013.

The appellant also submits that the litigation expenses of Rs.10,000/- that were ordered to be paid to her by the Bombay High Court has not been paid to her by the respondent. We accordingly direct the respondent to

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make payment of litigation expenses of Rs.10,000/-, as ordered by the High Court, to the appellant. The payment of Rs.20,000/- and Rs.10,000/- should be made to the appellant within a period of two weeks from today.

Since there is no doubt that the maintenance as ordered by this Court is being paid to the appellant on a regular basis, there is no reason to attach the 2/3rd salary of the respondent as prayed for in the applications.

The second prayer of the appellant is that the maintenance amount be deposited in SB A/c of the appellant bearing No. 084201503947 of ICICI Bank, Rohini, Delhi. Learned counsel for the respondent, on instructions from the respondent who is present in the Court, submits that he has no objection if the payment is made directly to the aforesaid SB Account of the appellant. We, therefore, direct that with effect from 1st March, 2015, all payments of maintenance, as directed by this Court, shall be paid over to the appellant in her SB A/c bearing No. 084201503947 of ICICI Bank, Rohini, Delhi. The arrears of maintenance of Rs.20,000/- mentioned above and the litigation expenses of Rs.10,000/- ordered by the Bombay High Court should also be directly deposited in this Account within two weeks as already mentioned.

As far as the third prayer in the applications is concerned, the appellant does not press this prayer.

Accordingly, IA Nos.66-70 of 2014 stand disposed of.

IA Nos.71-75 of 2014

The prayers made in these applications are as follows:

- "(i) Recall the order dated 15.10.2014 directing the appellant to bring 12-year old son to Supreme Court for spending time with respondent father.
- (ii) Recall the wrong allegations recorded as submitted by the Lawyer M.P. Vinod about appellant.
- (iii) Pass any such order as this Hon'ble court may deem fit and proper in the facts and circumstances of the case."

Insofar as the first prayer, viz., requiring the appellant to bring the child of the couple to the Court on 15th October, 2014 is concerned, that prayer has now

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become infructuous. We have already mentioned that it was recorded by this Court in the order dated 16th October, 2014 that this direction of bringing the child to the Court has not been obeyed by the appellant. In any event, since the direction to produce the child on 15th October, 2014 has become infructuous, we recall the order dated 15th October, 2014 to this extent only.

As far as the second prayer, viz., the allegation said to have been wrongly recorded as submitted by Mr. M.P. Vinod, Advocate-on-Record, is concerned, we reject this prayer. There is nothing in the order dated 16th October, 2014 that the appellant had objected to this allegedly incorrect statement made by Mr. M.P. Vinod, Advocate-on-Record. The order appears to have been dictated in the presence of the appellant and does not appear to be a reserved order. Accordingly, this prayer is rejected.

We may also mention that the appellant has not stated anywhere in the applications that incorrect allegations were made by Mr. M.P. Vinod, Advocate-on-Record.

As far as the third prayer is concerned, the appellant does not press this prayer.

Under the circumstances, IA Nos.71-75 of 2014 stand disposed of.

The appeals be listed for final hearing before an appropriate Bench at the earliest convenience. We repeat that the appellant has specifically requested for an early hearing.

The Registry is directed to intimate the appellant the date of final hearing after it is fixed.

(SANJAY KUMAR-I)
COURT MASTER

(JASWINDER KAUR)
COURT MASTER