

(2013) 10 AP CK 0059

Andhra Pradesh High Court

Case No: Contempt Case No. 1805 of 2013

Smt. Prabhodini Gatla

APPELLANT

Vs

Vijay Kumar Gatla

RESPONDENT

Date of Decision: Oct. 29, 2013

Citation: (2014) 1 ALD 482

Hon'ble Judges: M. Seetharama Murti, J

Bench: Single Bench

Advocate: D. Vathsalendra, for the Appellant; N. Prashant, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

M. Seetharama Murti, J.

This is a contempt case by the sole petitioner against the sole respondent requesting to punish the respondent under Sections 10 to 12 of the Contempt of Courts Act (♦the Act♦, for short) for not obeying the order dated 10.12.2012 of this Court made in C.R.P.No.3937 of 2012.

2. The case of the petitioner, in brief, is this:

The learned Judge, Family Court, Hyderabad, by an order dated 19.04.2012 made in I.A. No. 85 of 2011 in O.P. No. 123 of 2011 granted interim maintenance of Rs. 20,000/- per month from the date of the petition till the disposal of the main/original petition and further directed that the amount of interim maintenance shall be payable on or before 10th of succeeding month and that the arrears of interim maintenance shall be paid by the respondent within three months from the said date of the said orders. Aggrieved of the said orders, the respondent had preferred C.R.P. No. 3937 of 2012 before this Court. This Court, by orders dated 10.12.2012 dismissed the revision petition and had confirmed the orders of the learned Judge of the Family Court, Hyderabad. As per the orders of this Court, the arrears are to a tune of Rs. 3,10,000/- as on the date of filing of the present case. Despite the orders of this Court, the respondent has not paid any amount till this day to the petitioner

and, therefore, the petitioner and her infant are being put to sufferance. The respondent is being represented by his brother before the learned Judge, Family Court. Hence the respondent may be brought before this Court for properly explaining as to why he had violated the orders of this Court. Since the aforementioned orders of this Court are not complied with, this Court may be pleased to punish the respondent under Sections 10 to 12 of the Act for not obeying the orders of this Court.

3. I have heard the submissions of the learned counsel for the petitioner.

4. The case necessary for consideration, in brief, is as under:

The learned Judge of the Family court, Hyderabad, vide order dated 19.04.2012 in I.A. No. 85 of 2011 in O.P. No. 123 of 2011 granted interim maintenance to the petitioner from the date of the petition till disposal of the main/original petition. The said orders were confirmed by this Court, by orders dated 10.12.2012 made in C.R.P. No. 3937 of 2012. Despite the orders of this Court, the respondent has not paid any amount till this day to the petitioner and, therefore, the petitioner and her infant are being put to sufferance. As per the orders of this Court, the arrears are to a tune of Rs. 3,10,000/- as on the date of filing of the present case. Hence the respondent may be brought before this Court for properly explaining as to why he had violated the orders of this Court. Since the aforementioned orders of this Court are not complied with, this Court may be pleased to punish the respondent under Sections 10 to 12 of the Act for not obeying the orders of this Court.

5. From the facts narrated supra, it is evident that interim maintenance was awarded to the petitioner and the same is payable by the respondent. In case the same is not paid, the petitioner is entitled under law and facts to execute the orders as per the procedure established by law and realise the arrears of interim maintenance and also the current interim maintenance besides future interim maintenance. Instead of either filing a collection petition or seeking execution of the orders/decrees granting interim maintenance, the petitioner had filed this contempt case. In case there is a grievance of non compliance of the decree or order granting interim maintenance, the remedy available is to approach the Court of execution; notably the execution proceedings provide detailed procedure as opposed to the proceedings in contempt, which are summary in nature. Thus, when the matter relates to non compliance of a decree or an order granting interim maintenance and when an appropriate and efficacious regular remedy is otherwise available under law to the petitioner it is not expedient to exercise contempt jurisdiction as a mode of executing the order/decrees for interim maintenance. In the well-considered view of this Court, simply because the regular remedies may take more time and/or are more circuitous, the contempt proceedings cannot be invoked for collection of the arrears of interim maintenance. Viewed thus, this Court finds that for non compliance of the orders/decrees granting interim maintenance the provisions of the Civil/Criminal contempt are not attracted and so the contempt case is not

maintainable. Therefore, the contempt case is liable to be dismissed. In the result, the Contempt Case is dismissed at the stage of admission. It is needless to mention that the petitioner can initiate before the Family Court appropriate regular proceedings as provided under law for recovery/collection of arrears of interim maintenance. No costs.