

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONTEMPT PETITION (C) NO. 320 OF 2022
IN
CIVIL APPEAL NO. 8264 OF 2016

DEBIBRATA CHATTOPADHYAY

Appellant(s)

VERSUS

JHARNA GHOSH & ANR.

Respondent(s)

O R D E R

This Court vide order dated 23.08.2016 has observed thus:

"...We, therefore, direct the respondents to pay occupational charges from 01.05.2006 to 31.08.2016 @ 14000/- per month which workout to sum of Rs.17,36,000/-. Same shall be paid within eight weeks in two installments. First installment will be paid within four weeks' which is a sum of Rs. 8,68,000/- and next installment shall be paid within four weeks, thereafter, which is also a sum of Rs.8,68,000/- and from 01.09.2016, use and occupational charges shall be paid till the decision of the Trial Court.

The aforesaid order shall be subject to the final decision in the O.S. by the Trial Court. The Trial Court shall decide the suit within a period of one year from the date of receipt of the copy of this order.

We make it very clear that if the arrears of the amount from 01.05.2006 to 31.08.2016, as stated supra, is not paid by the respondents, the evidence filed in the case shall be struck off and the court shall proceed further in the matter and decide the case as directed by us..."

It is not in dispute that the respondent has not paid the occupation charges as directed by this Court.

The effect of the order passed by this Court was that, in the event the respondent fails to pay the arrears, the evidence filed in the case shall be struck off and the Court shall proceed in the matter and decide the case as directed by the Court.

By an order dated 14.01.2022, the learned Civil Judge (Senior Division) has observed that, by invoking his inherent powers under Section 151 of the Code of Civil Procedure, further cross-examination of PW-1 is reopened on payment of costs. By another order dated 08.04.2022, the learned Civil Judge (Senior Division) further observed that though this Court has struck off the right of the defendants to give evidence, that it has not directed to strike off the defence of the defendant(s). It was, therefore, observed that the contention of the plaintiff that the defendant has no right to show its relied documents to PW-1 for proving and exhibiting the same in evidence is without substance.

Shri Jaideep Gupta, the learned Senior Counsel submits that the orders passed by the learned Civil Judge (Senior Division) dated 14.01.2022 and 08.04.2022 have not been challenged before any superior forum. He submits that, for the first time, the petitioner cannot

be permitted to raise a grievance with regard to the said orders before this Court.

When an order has been passed by this Court, it has to be given effect in letter and spirit. An order passed by this Court cannot be permitted to be treated as a paper order. The spirit behind the order dated 23.08.2016 passed by this Court is clear that in the event the respondent fails to clear the arrears, he will not be permitted to defend her case and the trial will proceed without her defence.

We are clearly of the view that the learned trial Judge has permitted indirectly to do what has been prohibited directly by this Court vide order dated 23.08.2016.

We, therefore, modify the orders passed by the learned Civil Judge (Senior Division) dated 14.01.2022 and 08.04.2022 and clarify that the respondent-defendant would be permitted only to cross-examine the plaintiff with regard to the documents produced by the plaintiff.

Shri Gupta further submitted that though the respondent has suffered from various set backs, including loss of her son , she will pay occupational charges at the rate of 25,000/- regularly from the month of November, 2022.

The contempt petition is disposed of in the above terms.

Pending applications, if any, stand disposed of.

.....J
(B.R. GAVAI)

.....J
(PADMIDIGHANTAM SRI NARASIMHA)

New Delhi
August 26, 2022

ITEM NO.45

COURT NO.13

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CONMT.PET.(C) No. 320/2022 in C.A. No. 8264/2016

DEBIBRATA CHATTOPADHYAY

Petitioner(s)

VERSUS

JHARNA GHOSH & ANR.

Respondent(s)

(IA No. 96738/2022 - EXEMPTION FROM PERSONAL APPEARANCE, IA No. 77889/2022 - PERMISSION TO FILE ADDITIONAL AND DOCUMENTS/FACTS/ANNEXURES)

Date : 26-08-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s)

Mr. Avi Singh, Adv.
Mr. Manohar Pratap, Adv.
Mr. Shiven Varma, Adv.
Mr. Ajit Kumar Ekka, AOR

For Respondent(s)

Mr. Jaideep Gupta, Sr. Adv.
Mr. Kunal Chatterji, AOR
Ms. Maitrayee Banerjee, Adv.
Mr. Rohit Bansal, Adv.

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

The Contempt Petition is disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(ANJU KAPOOR)
COURT MASTER (NSH)

[Signed order is placed on the file]

