

Gujarat High Court

Parbatbhai vs The on 22 February, 2011

Author: Jayant Patel,&NbspMs.Justice B.M.Trivedi,&Nbsp  
Gujarat High Court Case Information System

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MCA/3398/2010      2/ 2      ORDER

IN  
THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL  
APPLICATION - FOR CONTEMPT No. 3398 of 2010

In

FIRST  
APPEAL No. 545 of 2008

=====

PARBATBHAI  
BHIMABHAI KHUNTI - Applicant(s)

Versus

LILUBEN  
GOGANBHAI KADCHA - Opponent(s)

=====

Appearance  
:  
MR  
MITUL K SHELAT for  
Applicant(s) : 1,  
None for Opponent(s) :  
1,  
=====

CORAM

:

HONOURABLE

MR.JUSTICE JAYANT PATEL

and

HONOURABLE

MS.JUSTICE B.M.TRIVEDI

Date

: 22/02/2011

ORAL

ORDER

(Per : HONOURABLE MR.JUSTICE JAYANT PATEL)

1. The basis of the present application is the alleged breach and non-compliance of the order dated 16.7.2008 passed by this Court in Civil Application No. 1577/2008, whereby, interim injunction was granted in terms of para-5(B).

2. Mr.

Shelat learned counsel for the applicant has stated that the relief para-5(B) was to the effect restraining the opponent therein from taking minor children Pratik and Jaydeep out side India.

3. We have heard Mr. Shelat learned counsel appearing for the applicant-petitioner. It is undisputed position that as per the applicant-petitioner, the opponent has left the limits of Indian territory. No evidence is produced on record to show that minor Pratik and Jaydeep were within the territory of India on the date when this Court passed the order. No material is produced on record to show that on which date the respondent - opponent has left the country and, that too, in contravention of the order passed by this Court. Under the circumstances, it is not possible for this Court to take cognizance of the alleged contempt.

4. Apart from the above,, it deserves to be recorded that when the opponent is not within the territory of the country, admittedly, as stated by the applicant, the jurisdiction cannot be invoked on the ground as sought to be canvassed.

5. Hence, the present application is not entertained and dismissed.

6. The aforesaid shall be without prejudice to the rights and contentions of the parties of main First Appeal.

(JAYANT PATEL, J.) (Ms.

B.M. TRIVEDI, J.) mandora/ Top