

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment reserved on : August 12, 2009**
Judgment delivered on : September 03, 2009
+ **Cont. Cas. (C) No.595/2009**

GAYASUDDIN & ANR. Appellants
Through: Mr. S.P. Jha, Advocate.
Versus
WALI MOHD & ORS. Respondents
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers may be allowed to see the judgment?	No
2. To be referred to Reporter or not?	No
3. Whether the judgment should be reported in the Digest?	No

J U D G M E N T

VIPIN SANGHI, J.

1. By this order I propose to dispose of this petition under section 11 and 12 of the Contempt of Courts Act read with Article 215 of the Constitution of India filed by the petitioner Gayasuddin alleging violation of the order dated 18.02.2009 passed by this Court in LPA No.370/2006. The Division Bench had dismissed the said appeal along with costs of Rs.20,000.00 to be paid to the respondents in the LPA (petitioners herein) by the respondents herein within four weeks from the date of the order.

2. The preliminary question that arises is, whether a Contempt petition can be maintained when an order as to payment of costs has not been complied. This question has been decided in the negative by the Supreme Court in ***Food Corporation of India vs. Sukh Deo Prasad (2009) 5 SCC 665*** in the following words:-

“At all events, if a garnishee, or a defendant, who is directed to pay any sum of money, does not pay the amount, the remedy is to levy execution and not in an action for contempt of disobedience/breach under order 39 Rule 2A. This is evident from rule 46B of Order 21 read with Rule 11A of order 38 of the Code. Contempt jurisdiction, either under the **Contempt of court Act, 1971, or under Order 39 Rule 2A of the Code, is not intended to be used for enforcement of money decrees or directions/orders for payment of money. The process and concept of execution is different from process and concept of action for disobedience/contempt.**” (emphasis supplied).

3. In the light of the aforesaid position, plus the fact that there are other alternate remedies available for the recovery, I dismiss this petition. The petitioner is not precluded from taking recourse to other legal remedies for the recovery of the said costs.

(VIPIN SANGHI)
JUDGE

SEPTEMBER 03, 2009
as