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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: November 30, 2010

Date of Order: 08 December, 2010

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Cont. Cas (C) No. 720/2009

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08.12.2010

R.K. Garg

...Petitioner

Versus

Montreaux Resorts Pvt. Ltd. & Ors.

...Respondents

Counsels:

Mr. Harish Malhotra, Sr. Adv. with Mr. R.K. Modi for petitioner.
Mr. Vibhu Bakhru, Mr. P. Nagesh and Mr. Anand M. Mishra for respondent.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. This petition for contempt has been filed by the petitioner alleging violation of an injunction order dated 7th April 2008 passed by this Court in CM 3285 of 2008 in W.P. 1703 of 2008.

2. Surprisingly, in the contempt petition, the petitioner has made Mr. Vikram Bakshi as respondent no.3 and Mr. Wadia Prakash as respondent no.4 and Mr. Vinod Suraha as respondent no.5. The petitioner has alleged commission of contempt against these respondents also. The petitioner had not made these persons as respondents in his writ petition and after going through the writ petition, it is evident that he deliberately did not make them respondents in order to keep them in dark. The list of dates filed by the petitioner in the writ petition shows that the petitioner was very well aware of the interests of Mr. Vikram Bakshi, Mr. Wadia Prakash and Mr. Vinod Suraha and that they were in

litigation with other respondents. His not making these persons as parties to the writ petition and obtaining an ex parte injunction speaks volumes about his intention. Ultimately, the writ petition was withdrawn by the petitioner with a prayer that he be permitted to seek remedy under Section 10F of the Companies Act.

3. The contempt is alleged by the petitioner on the ground that respondents during proceedings before this Court in a company petition made a statement on 11th April 2008 that they shall maintain status quo to the shareholding of the company as it existed on 13th August 2007 i.e. on the date four months prior to petitioner claiming that he was issued 30200 shares.

4. It is a fact that the petitioner had not brought to the notice of the court while seeking ex parte order in petition no.1703 of 2008 that a company petition was already pending before this Court and controversy regarding management of the company was an issue before the Court. The petitioner has claimed himself to be the director and, therefore, it cannot be believed that he was not aware, rather list of dates filed by him shows that he was very well aware. In view of this, I consider that the ex parte order obtained by the petitioner was obtained by concealment of facts from the writ court as he did not bring to the notice of the court all facts and obtained a status quo order. I also find that by making the statement in the company Court, in company petition on 11th April 2008 i.e. just four days after the petitioner obtained ex parte order, no contempt was committed by respondents. This petition itself is a frivolous petition and is liable to be dismissed and is hereby dismissed with costs of Rs.25,000/- payable to Delhi High Court Legal Services Committee.

December 08, 2010
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SHIV NARAYAN DHINGRA, J