

10.

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CONT.CAS(C) 751/2008

Date of Judgment 14 July, 2010

M/S BARMALT INDIA PVT. LTD. Petitioner

Through : Mr. Dinesh Agnani &
Mr. Rahul Arora, Advs.

versus

K.S. MEHRA & OTHERS Respondents

Through : Ms. Maninder Acharya, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

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

G.S.SISTANI, J (ORAL):

1. Counsel for the petitioner submits that the respondents have been willfully violated the order dated 11.2.2003 passed in WP(C) No.1104/2003. Operative portion of the order dated 11.12.2003 reads as under:

“The petitioner has further stated that on more than one occasions he has to obtain duplicate bills and whenever he has gone to the authorities the matter in issue has not been settled.

In view of the aforesaid learned counsel for the respondent fairly states that a date of hearing may be fixed before the concerned authority for petitioner to appear for finalisation of accounts of house tax. The petitioner shall produce the receipts and petitioner will be informed in case any balance is due after taking into account the receipts and the basis for the same.

The petitioner to appear before Deputy Assessor and Collector on 24th February, 2003 at 3.00 P.M.

In view of the aforesaid the impugned notice dated 17.1.2003 is hereby quashed and the writ petition stands allowed in the aforesaid terms.”

2. Mr. Agnani submits that petitioner appeared before the Deputy Assessor and Collector on 24.2.2003 at 3 p.m, the time and date,

fixed by the Court. However, the Deputy Assessor and Collector did not supply the necessary documents as requested by the petitioner. Counsel further submits that soon after the meeting on 24.2.2003 petitioner issued a communication to the respondent on 25.2.2003 wherein it was stated that the petitioner had produced in original all receipts evidencing deposit of property tax as also communications addressed to the respondent in details which were received by them. Petitioner also informed the respondent that the petitioner had not received the assessment order in respect of property nor any bills were received by them and payments were made on obtaining duplicate bills. Petitioner requested for supply of copies of assessment orders, basis and calculation of ratable value fixed for the four properties and area wise break-up of property tax payable. Petitioner thereafter issued various letters to the respondents including letters dated 15.3.2003, 22.4.2003, 27.9.2003 and 7.10.2004. Copies of these letters have been placed on record. It is submitted that all these letters were hand delivered and bear the stamp and initials of the persons who has received the same. It is next contended that despite the orders passed by this Court as also the various communications issued the respondents have failed to comply with the order dated 11.2.2003 and respondents issued a demand dated 19.9.2008 which has led to the filing of the present contempt petition.

3. Counsel for the petitioner submits that on account of non-compliance with the order dated 11.2.2003 serious prejudice has been caused to his rights in view of the fact that the petitioner has not been able to avail of the benefits of various scheme formulated by the MCD by

which either no interest was charged or rebate was given to the assesses.

4. Counsel for the respondent submits that in case the petitioner wanted to avail of the scheme, the petitioner could have himself availed all these benefits without waiting for the information. However, counsel for the petitioner submits that according to the petitioner no amount was due as he had made all the payments and the grievance of the petitioner in the writ petition was that neither assessment orders were being supplied to him nor the basis or calculation on which the assessment had been made and also that no bills were issued to him. However, as a law abiding citizen he was obtaining duplicate bills and made the payments. Thus, in the absence of any bill or demand there was no occasion for the petitioner to approach the MCD.
5. Counsel for the respondent submits that in the meeting which was fixed by this Court on 24.2.2003 the respondent was given the information sought and thus no contempt is made out. It is, however, admitted by the respondents that various letters were received to which no reply was given and also that no written order was passed after the meeting which was held on 24.2.2003 nor minutes of the meeting were drawn up.
6. Reading of the order dated 11.2.2003 passed in the writ petition would show that petitioner had impugned the order of attachment dated 17.1.2003 on the ground that he had been paying house tax regularly after taking into account the rebate which the petitioner was entitled to. Petitioner wanted the issue, relating to payment made to MCD be settled. Accordingly, the Court fixed the time and date to enable the petitioner to appear before the Deputy Assessor

and Collector, MCD. Reading of the letter dated 25.2.2003 would show that the petitioner had produced all the receipts in original evidencing deposit of property tax and also produced copies of all the letters addressed to the MCD, duly received by the MCD. Reading of the letter would further show that petitioner company informed the Deputy Assessor and Collector, MCD, that they have not received the Assessment Order and have also not received any bill in respect of the property and they have been making payments year after year after obtaining the duplicate bill. The petitioner company made its stand clear to the MCD that there would be no outstanding dues in case rebate of 20% is accounted for in their books against the payments made by them. While concluding the petitioner demand copies of (i) assessment orders with regard to their properties; (ii) basis and calculation of rateable value; and (iii) year-wise breakup of property tax payable by them for the properties. This communication as also subsequent communications were duly received by the MCD to which no response was given, which can only lead to the conclusion that the MCD did not comply with the order in right perspective.

7. While learned counsel for the MCD submits that the factum of the meeting has not been denied by the petitioner, thus, the order duly stands complied with. This submission of counsel for the MCD is without any merit as the order was to be complied with in letter and spirit and with a view to give finality to the matter. In case the demanded documents had been supplied or the position had been clarified, as sought to be urged by counsel for the MCD, surely the MCD would have either replied to the various communications received by them and rebutted the contents of the letters.

8. Giving this situation, prima facie I am of the view that the MCD did not comply with the order dated 11.2.2003, however, no orders are called for and liberty is granted to the petitioner to assail the demand letter dated 19.9.2008.
9. Having regard to the facts of this case and the stand taken by the parties, the operation of the impugned demand is stayed for a period of four weeks from the receipt of this order to enable the petitioner to assail the demand in accordance with law. Liberty is also granted to the petitioner to raise such grounds as may be available to him including the prejudice which is sought to have been caused on account of non-compliance with the order dated 11.2.2003.
10. Having regard to the fact that the petitioner has been forced to approach this Court. The present petition is disposed of subject to payment of cost of Rs.5000/- to the petitioner within six weeks. Mr. Agnani submits that the cost may be paid to the Delhi High Court Legal Aid Committee. Ordered accordingly.
11. Petition stands disposed of.

July 14, 2010
'aj'

G.S. SISTANI, J.