

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

Date of Reserve: 30th November, 2010

Date of Order: 17th January, 2011

+CONT. CAS(C) 190 OF 2010

%

17.01.2011

DEEPAK KHOSLA

... Petitioner

Through: Petitioner in person

Versus

DELHI HIGH COURT & ORS.

... Respondents

Through: Mr Rajiv Bansal with Mr. Amandeep, Advocates
for R-1 and R-2

JUSTICE SHIV NARAYAN DHINGRA

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

JUDGMENT

1. This Contempt Petition has been preferred by the Petitioner against seven Respondents out of which Respondent No. 1 is Delhi High Court and Respondent No. 2 is Registrar of Delhi High Court. Other three Respondents are Advocates and two are private persons. In the Contempt Petition, the Petitioner has alleged that Registry of this Court had not followed the instructions given by a Division Bench of this Court vide Judgment "**Deepak Khosla & Anr. Vs. Union of India**" dated 8th October, 2009 in **WP (C) 7651 of 2009**. He submitted that this Court vide aforesaid judgment treated the Writ Petition as a Public Interest Litigation and issued directions in Para No. 12 & 13 of the judgment in respect of Vakalatnamas being filed in the Courts, Cont. Cas(C) No. 190 of 2010

more specifically when the Vakalatnama was executed not by the principal himself but by some person claiming to obtain or given authority on his behalf to another person.

2. The allegations made are that the directions of this Court, given in aforesaid Writ Petition and consequent circular were not followed by the Registry since it listed an O.M.P. No. 660 of 2009 dated 10th November, 2009 before this Court without complying with the directions given by the Division Bench in the aforesaid Writ Petition in respect of Vakalatnama. The petitioner has made Advocates as Contemnors on the ground that they were aware of the order of the High Court, but, still filed Vakalatnamas contrary to the directions of the High Court. Private persons have been made Contemnors on similar basis. The Petitioner also claimed cost of ₹ 66,000/- to be reimbursed to him by the Contemnors.

3. Section 2 Sub Sections '(b)' & '(c)' define Civil and Criminal Contempt as under:

“(b) "Civil contempt" means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court.

(c) "Criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which-

(d) Scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court, or

(ii) Prejudices, or interferes or tends to interfere with the due course of any judicial proceeding , or

(iii) Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.”

It is obvious from the Petition that the Petitioner has alleged disobedience of the Judgment of the High Court by Registry and filed this Civil Contempt on this basis. However, a perusal of the Judgment, of which disobedience is alleged, would show that in this Judgment Respondent no. 3 to 7 were not parties and only Union of India, Delhi High Court, Registrar of High Court and Arbitration Tribunal were parties. The directions, given by this Court in the Judgment, were given to the Registry of this Court, the Subordinate Courts to the High Court and Tribunals. It was directed that the Registry and the Subordinate Courts and Tribunals shall do proper scrutiny of Vakalatnamas filed along with Petitions and if the Vakalatnamas were not properly executed, the same be not taken on record. Para 13 of the Judgment specifically directed the Registry of this Court and the lower Courts, Tribunals and Authorities Subordinate to the High Court to give effect to the decision of Supreme Court in *Udai Shankar Triyar Vs. Ram Kalewar Prasad Singh & Anr. (AIR 2006 SC 269)* and if the Vakalatnamas were not found executed in the manner indicated in the Judgment, the same shall be treated as deficiency in execution of Vakalatnama making said Vakalatnama liable to be returned.

4. In order to make out a case of Civil Contempt, it is necessary that there should be willful disobedience of the Judgment/Decree/Directions/ Order of court by a person to whom directions are given under the Judgment/Decree/ Directions/Order. Since the directions were given only to Respondent No. 1 and 2 in this case, no case of Contempt would lie against other Respondents. If the Vakalatnama was not properly executed by Respondent No. 3 to 7, the Registry was liable to reject the Vakalatnama. It could not be said that non-execution of Vakalatnama in accordance with the directions laid down in the Judgment by an Advocate would amount to Contempt of the Court. Even if the Judgment is treated as Statutory Provision/Direction, non-adherence to the Statutory Provision does not amount to Contempt. The consequence of non-adherence are always given in the Statute itself and those consequences have to follow. In the present case, the consequence of non-adherence to the directions was given in the Judgment itself and at the most Vakalatnama could be returned. I, therefore, consider that no Contempt was made out as against the Respondent No. 3 to 7 under any circumstance. So far as Respondent No. 1 and 2 are concerned, the issue of Civil Contempt would arise only if there was a “willful disobedience” of the Judgment. “Willful disobedience” is the basic requirement for Civil Contempt. It has not been even alleged by the petitioner that Respondent No. 1 and 2 acted in “willful disobedience”. Word “WILLFUL” signifies a deliberate act showing an intention to disobey. There are no allegations that Registry had any ulterior motive or intention in accepting the Vakalatnama filed in O.M.P. No. 660 of 2009. In the absence of these allegations of “willful disobedience” by Respondent No. 1 and 2, this Petition for Contempt would not lie. Even

otherwise, Department [Registrar (Original), who was handling the O.M.Ps], has filed an affidavit that she had always maintained the Majesty of this Court and if any act of omission/commission was on her part which can be construed as an inaction on her part, she tenders unqualified apology.

5. I consider that since not even an allegation of “willful or intentional disobedience” of the directions of the Court in accepting Vakalatnama in OMP was made against Respondent No. 1 and 2, no Contempt was made out.

6. A perusal of Petition would show that the Petitioner had, in fact, narrated all irrelevant facts which were not necessary for the purpose of deciding the Petition. The Petition, itself seems to be mis-use of judicial process and is liable to be dismissed with cost.

The Petition is hereby dismissed with cost of ₹ 25,000/-. Cost to be paid to Delhi High Court Legal Aid Committee.

JANUARY 17, 2011
acm

SHIV NARAYAN DHINGRA, J.