

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

% *Date of Judgment: 17.05.2012.*

+ CM(M) 1796/2004

MAJOR RAJINDER SINGH CHIMNI TH ..... Petitioner  
Through Mr. Amarjeet, LR of the deceased  
petitioner.  
versus

STATE (NCT OF DELHI) & ORS. .... Respondent  
Through Ms. Amita Gupta, Adv.

**CORAM:**  
**HON'BLE MS. JUSTICE INDERMEET KAUR**

**INDERMEET KAUR, J.** (Oral)

1 Order impugned is dated 25.05.2004. The contempt petition filed by the petitioner Major Rajinder Singh Chimni under Sections 11 & 12 of the Contempt of Courts Act seeking initiation of contempt proceedings against the respondent for willful disobedience of the order dated 25.06.1993 stood dismissed.

2 Record shows that the building plan of property bearing No. 6/67, East of Kailash, New Delhi was sanctioned on 03.12.1992. During the course of the constructions, the owner/deviator had allegedly deviated from the sanctioned plan and made excessive coverage on the ground

floor, first floor and second floor as also in the basement; he was booked for this excessive coverage. This was on 13.04.1993. On the same day, a demolition order was passed against the builder for the aforementioned excessive coverage; proceedings under Section 345-A of the Delhi Municipal Corporation Act were initiated; building was sealed on 31.05.1993. The builder/owner filed an appeal against the demolition order which was allowed on 25.06.1993 and the matter was remanded back to the Assistant Commissioner Engineer (Engineering) with a direction to decide the matter within two months w.e.f. 05.07.1993 and to de-seal the building. A further condition was imposed that neither any construction will be carried out and nor there will be any alteration of the premises during the pendency of the proceedings.

3 The present petition has been filed by the petitioner seeking an initiation of contempt as there has been a in violation of the order dated 25.06.1993 i.e. the order passed by the ATMCD. Reply was filed by the MCD to this petition on 05.12.1995. Vehement contention of the petitioner is that inspite of directions contained in the order dated 25.06.1993 that status quo would be maintained and no further

construction will be made, the order has been disobeyed and unauthorized construction was carried out on 05.09.1993; the direction not to part or alienate of the property during the pendency of proceedings has also been violated.

4 This plea of the petitioner did not find favour with the Court who dismissed it vide order dated 25.03.2004; the Court was of the view that period of one year prescribed for seeking initiation of contempt has since expired; the petition was barred by limitation.

5 The appellate body i.e. office of the Lt. Governor on 26.05.2004 had dismissed the appeal as not maintainable.

6 The petition had initially been dismissed in the default on 31.03.2011 but subsequently on the application filed by the petitioner it was restored vide order dated 19.01.2012.

7 The petitioner is arguing in person. He has placed reliance upon AIR 1989 SC 2285 Firm Ganpat Ram Rajkumar Vs.Kalu Ram and others as also another judgment of this Court reported in 157 (2009) DLT 125 Santosh Kapoor Vs. Apex Computers P. Ltd. to support his

submission that this was a continuous wrong committed by the contemnor and as such the limitation as prescribed under Section 20 of the Contempt of Courts Act, 1971 was not applicable.

8 Record shows that the petitioner is aggrieved by the fact that there has been willful disobedience of the order of the Court dated 25.06.1993. Relevant extract of this order reads herein as under:-

*“The case is remanded to the Additional Commissioner (Engg.) for a fresh decision after providing a reasonable opportunity of hearing to the appellant. The appellant shall file reply of the show cause notice and the documentary evidence in respect of her case before the Additional Commissioner (Engg.), MCT Town Hall, on 05.07.1993 at 02:00 PM and will also join the proceedings conducted by him. Additional Commissioner (Engg.) will decide the matter within two months calculated from 05.07.1993. The respondent shall remove the seal of the premises. The appellant shall, however, maintain status quo in respect of the construction and possession in the premises and she shall not carry out further construction in the premises and shall also not assign, part with possession and alienate the premises during the pendency of the proceedings. ”*

9 During the course of the proceedings before the Additional Commissioner (Engineer), the owner/builder had deposited the compounding fee and he was directed to remove the compoundable deviations; it has come on record that the compounding fee of Rs.59,502/- has in fact been paid by the owner and the non-

compoundable deviations in the basement as also on the second floor were rectified. This was evident from the report of the Additional Commissioner dated 29.05.1995; proceedings under Section 345-A of the Delhi Municipal Corporation Act had been dropped. This finds mention in the impugned order and these facts are even otherwise not in dispute.

10 The instant contempt petition has been filed on 29.09.1997 i.e. seeking a contempt of the disobedience of the directions contained in the order dated 25.06.1993. There is no dispute to the factum that the period of limitation prescribed under Section 20 of the Contempt of Courts Act is one year from the date of the order of which contempt has been sought.

11 The impugned order had correctly noted that there has been no willful disobedience of the order/directions contained in the order dated 25.06.1993 as the matter had been remanded back to the Additional Commissioner (Engineer) who had dropped the proceedings under Section 345-A of the Delhi Municipal Corporation Act which is evident from his report dated 19.05.1995; he had noted that the compounding

fee has been paid and the deviations have been rectified by the owner/builder. The impugned order has also recorded a finding that the knowledge about these deviations having been rectified and the compounding fee having been paid was known to the petitioner as early as on 05.12.1995; in para 3 of the contempt petition, he had in fact stated that he had initiated CCP No. 220/1994 in the High Court for retaining the non-compoundable deviations and the willful disobedience of the order where again reference was made to the order dated 25.06.1993.

12 In this background, the Court had correctly noted that the petitioner has not come clean to the Court; he appears to be addressing some personal vendetta/ grievance which is not the purport of provisions of Sections 11 & 12 of the Contempt of Courts Act; he having acquired knowledge of this alleged violation on 05.12.1995 and having filed the contempt petition on 29.09.1997, it was clearly barred by limitation. Petition was rightly dismissed; a period of more than one year having been elapsed even from the date when the petitioner has learnt about this

order which was on 25.12.1995 and the contempt petition having been filed on 29.09.1997, it was clearly barred by limitation.

13      Petition is without any merit. Dismissed.

**MAY      17, 2012**  
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**INDERMEET KAUR, J**