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HIGH COURT OF DELHI AT NEW DELHI

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Cont. Cas (C) No.503/2013

Decided on : 10th October, 2014

SHRI RAMANDEEP SINGH AHLUWALIA Petitioner

Through: Mr. Rajnish Sinha & Mr. Archit Rajpal,
Advocates.

Versus

SHRI SANJEEV NARULA & ORS. Respondents

Through: Mr. Tanmay Mehta & Mr. Sachin Midha,
Advocates with R-1 & 3 in person.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. The present contempt petition has been filed by the petitioner effectively seeking recovery of monies. The learned counsel for the petitioner was heard for some time and the learned counsel was suggested that money should be got recovered by resorting to processes of law under Civil Procedure Code rather than seeking initiation of action for contempt of court. This was suggested in view of the judgment of the Apex Court in case titled *Kanwar Singh Saini vs. High Court of Delhi; (2012) 4 SCC 307*.

2. The petitioner originally sought permission to withdraw the petition with liberty to approach the civil court; however, after the matter

was adjourned, 15-20 minutes later, at the time of lunch, the petitioner's counsel appeared again and stated that he would not like to withdraw the petition as suggested earlier and stated, on instructions, that the matter may be decided on merits.

3. I have already heard the learned counsel for the petitioner.

4. The petitioner has filed the present contempt petition against the respondents on account of the alleged willful disobedience of the orders dated 23.9.2011 and 19.12.2011.

5. Before dealing with the question as to whether any contempt action deserves to be taken against the respondents or not, it would be pertinent here to mention that the petitioner is the owner/lessor of the first floor of property No.E-3, Lajpat Nagar-II, New Delhi-110024, and the same has been let out to one M/s. Lilliput Kidswear Limited on a monthly rent of Rs.3 lacs which is payable upto the 10th of every English calendar month.

6. The petitioner has claimed that he had become owner of the first floor of the said property by virtue of a gift deed executed by his father C.S. Ahluwalia on 24.5.2007. Although the said gift deed was duly registered in accordance with the provisions under the Registration Act; however, his father had later on challenged the execution of the said gift deed before the learned Senior Citizen Tribunal, Saket, New Delhi, in which he was unsuccessful.

7. The petitioner had filed a suit bearing No.1725/2011 for injunction, rendition of accounts, etc., against his brother-in-laws, respondent Nos.1 and 2, namely, Sanjeev Narula and K.S. Dhillon as well as against Arun Jain, Director, M/s. Lilliput Kidswear Limited on the ground that the petitioner should be paid his part of the rentals as the same was not being paid to him. On the basis of the said suit, the High Court passed an order on 23.9.2011, operative portion of which reads as under :-

“.....To safeguard the interest of plaintiff, till disposal of this application, defendant No.3 is directed to deposit the lease amount/franchise agreement amount falling to the share of defendant Nos.1 and 2 with the Registrar General of this Court.

sd/-”

8. After the suit was admitted and notice was issued to the respondents, vide order dated 19.12.2011, the matter was referred by the learned single judge to the sole arbitration of Mr. P.K. Bhari, retired judge of this court; however, in order to protect the interest of the petitioner, the amount of the rent accruing to the petitioner was directed to be deposited with the Registrar General.

9. The case of the petitioner is that the respondents have not deposited the entire amount which they were obliged to deposit for the period commencing October, 2011 till April, 2013 which would come to Rs.64,41,604/- including the Service Tax and is thus, short of Rs.37,62,928/-, to what has been actually deposited. The details of the

lease rent and the Tax Deducted at Source have also been given along with the details of the amount deposited in the name of the petitioner. It has been construed by the petitioner to be the willful disobedience of the order passed by the learned single judge. Accordingly, he has been constrained to file the present contempt petition.

10. The respondents have filed their reply affidavit and disputed the claim of the petitioner that the amount has not been deposited by them correctly with the Registrar General in terms of the order passed by the learned single judge.

11. I have heard the learned counsel for the parties and have perused the record. The main contention of the learned counsel for the petitioner is that in terms of the order dated 23.9.2011 and 19.12.2011 in order to safeguard the interest of the petitioner, till disposal of the application, the respondent No.3, that is, Arun Jain, Director of M/s. Lilliput Kidswear Limited was directed to deposit the lease amount/franchise agreement amount falling to the share of respondent Nos.1 and 2 with the Registrar General of this court. Since the share of the amount was Rs.3 lacs accordingly, it has been contended that the amount had to be deposited at the aforesaid rate with the Registrar General, which has not been done and hence they are in contempt.

12. It is not in dispute that some amount has been deposited by respondent No.3 with the Registrar General. The only thing is that the amounts, which the petitioner wanted to be deposited, are the different

figures from those that have actually been deposited. Meaning thereby that the respondents have admittedly deposited certain amount, though it may be short as compared to the rate at which it ought to have been deposited, but nevertheless the very fact that some amount has been deposited clearly shows that there has been part compliance of the order passed by the court.

13. The contempt jurisdiction is not meant to convert the contempt court into a court of an accountant where the court has to go into small details of the amount to be paid or the rate or the period for which it is to be paid. All these things can be seen and got implemented by the petitioner before the civil court which has passed the order.

14. In the instant case, incidentally the order has been passed by the learned single judge while sitting on the original side, therefore, even if the petitioner wants to get the said order implemented, the proper course of remedy open to the petitioner is to go to the original side jurisdiction and file execution application giving therein the details of the amount due and payable to him and the actual amount which has been received by him.

15. The contempt proceedings cannot be used for the purpose of effecting recovery of monies by a party. The contempt jurisdiction has to be exercised very sparingly and only in cases where there is a gross willful disobedience of the orders of the court. Meaning thereby, the contempt jurisdiction will be exercised by a court only in order to

maintain the majesty of law and the rule of law and not to ensure recovery of monies to the petitioner. Reliance in this regard is placed on *Kanwar Singh Saini's* case (*supra*).

16. For these reasons, I feel that the present petition is totally misconceived. Accordingly, the petition is dismissed and the contempt notice is discharged leaving the petitioner free to seek such other appropriate remedy as may be permissible in law.

V.K. SHALI, J.

OCTOBER 10, 2014
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