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

% **Date of Decision: 22.04.2024**

+ **CONT.CAS(C) 790/2020**

(10) SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Sanjay Poddar, Sr. Adv.
alongwith Mr. Attin Shankar, Mr.
Govind Kumar, Mr. Aman Kapoor
and Mr. Saksham Kaushik, Advs. for
MCD.

versus

DHANANJAY KUMAR JHA Respondent
Through: Mr. S. Wasim A. Qadri, Sr.
Adv.along with Mr. M. M. Israili,
Mr. S.I. Israili and Mr.Gaurav Raj
Sharma, Advs.

+ **CONT.CAS(C) 726/2022 & CM APPL.14418/2024**

(12) SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Sanjay Poddar, Sr. Adv.
alongwith Mr. Attin Shankar, Mr.
Govind Kumar, Mr. Aman Kapoor
and Mr. Saksham Kaushik, Advs. for
MCD.

versus

DHANANJAY KUMAR JHA Respondent
Through: Mr. S. Wasim A. Qadri, Sr.
Adv.along with Mr. M. M. Israili,
Mr. S.I. Israili and Mr.Gaurav Raj
Sharma, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)



1. CONT.CAS(C) 790/2020 has been filed alleging contempt of the directions contained in the order dated 06.11.2020 passed in W.P. (C) 8242/2019. CONT.CAS(C) 726/2022 has been filed alleging contempt of the directions contained in the orders dated 06.11.2020, 18.12.2020, 25.03.2022 passed in W.P. (C) 8242/2019. The said orders are reproduced here as under :-

“ORDER

06.11.2020

The hearing was conducted through video conferencing.

CM APPL. 28136/2020 (fresh by petitioner for seeking leave to amend the writ petition)

1. Issue notice.
2. The learned Standing Counsel named above accepts notice on behalf of the South Delhi Municipal Corporation ('SDMC').
3. Reply and Rejoinder, if any, be filed within 4 weeks each, successively.
4. List on 23.03.2021.

CM APPL. 28238/2020 (fresh by petitioner for stay)

5. Issue notice.
6. The learned Standing Counsel named above accepts notice on behalf of SDMC.
7. Reply and Rejoinder, if any, be filed within 4 weeks each, successively.
8. Till the next date of hearing, there shall be a stay on the operation of the impugned order dated 29.10.2020.
9. The petitioner will be allowed to continue to operate the parking site i.e. parking site at cluster: Jasola District Park, District Centre Jasola in front of plot nos. 3, 7, 8 and 9 and Living Style Mall, Jasola, Delhi, as he was doing earlier, subject to the provisional payment of Rs.10 lacs per month effective from July 2020, and from November 2020 onwards, the petitioner shall pay Rs.11 lacs per month, subject to final adjustments, as maybe and/or outcome of the petition.
10. Without prejudice to his rights and contentions, the petitioner will pay Rs.28 lacs which are stated to be arrears @ Rs.8 lacs per month, additionally the petitioner will pay enhanced amount of Rs.2 lacs per month for July, August, September and October 2020 = Rs.8 lacs and Rs. 11 lacs for this month i.e. November 2020 and onwards. In effect, the



petitioner will pay Rs.47 lacs to the Corporation by 20.11.2020. If he so desires, he may pay it in 2 equal tranches on 13.11.2020 and 20.11.2020. According to the Corporation far more monies are outstanding.

11.The Bank Guarantee/security as encashed by the Corporation shall be replenished by the petitioner within a week from today.

12.The computation of the monies paid and/or adjusted, shall be filed by the parties in 2 weeks from today.

13.List on 23.03.2021.

14.The order be uploaded on the website forthwith.”

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“ORDER

18.12.2020

The hearing was conducted through video conferencing.

CM APPL. 32516/2020 (exemption) In W.P.(C) 8242/2019

1. Allowed, subject to all just exceptions.

2. The application stands disposed-off.

CONT.CAS(C) 790/2020 & CM APPL. 30898/2020 and W.P.C)8242/2019 & CM APPL. 29946/2020

3. Mr. B. L. Wali, the learned counsel for Mr. Dhananjay Kumar Jha, submits that neither Mr. Dhananjay Kumar Jha nor his agent isoperating the parking lot concerned.

4. Mr. Sanjay Poddar, the learned Senior Advocate for the Corporation, states, upon instructions, that the person at the parking site is one Mr.Pankaj Kumar Jha, who claims authority to work as an agent of Mr.Dhananjay Kumar Jha. Photographs of the parking site as on11.12.2020 have been shared by the Corporation on the computerscreen during the virtual Court proceedings. Let the saidphotographs/documents be brought on record.

5. Mr. Kushagra, the learned counsel for the GNCTD, who is present in the virtual Court proceedings, is directed to ascertain from the SHO, Police Station Sarita Vihar, New Delhi as to who is currentlyoperating and collecting monies at the parking site at Jasola DistrictCentre, Plot Nos.3, 7, 8, and 9, Living Style Mall, Jasola, New Delhi.

6. After the pass-over Mr. Kushagra states upon instructions that, that the local police has verified that a parking lot is being managed in anadjacent plot for and on behalf of one Mr. Rajesh Kumar Singh, whohas been duly authorised by the SDMC vide permission dated27.07.2018. The SHO has further informed him that on the Plot



Nos.3, 7, 8, and 9, there is no parking of vehicles; in other words, no such parking lot is operation at the site.

7. Mr. Wali submits that the petitioner in the petitioner has not operated the site from 29.10.2020 till date.

8. If the said petitioner wishes to operate the parking site, he may do so from tomorrow. Possession of the site shall be handed over to him at 10:00 a.m. tomorrow, without prejudice to the rights and contentions of the parties. In the interim, no monies from the period of 29.10.2020 till today will be payable, subject to further arguments.

9. The Delhi Police is impleaded as a party. Let an affidavit, along with photographs, be filed by the SHO apropos the status as intimated to the Court by the learned counsel for the Delhi Police.

10. Response to the affidavit may be filed by the parties, if so instructed.

11. The Amended Memo of Parties be filed in 2 weeks from today.

12. List on 23.03.2021 i.e. the date already fixed.

CM APPL. 32515/2020 (by petitioner for modification of order dt. 06.11.2020) in W.P.(C) 8242/2019

13. Issue notice.

14. The learned counsel named above accept notice on behalf of the non-applicants.

15. This application seeks modification of the earlier order, directing the petitioner to pay the Corporation Rs.11 lakhs per month, to the without prejudice to his rights and contentions.

16. Mr. Wali submits that because of the reigning COVID-19 pandemic, the full volume of traffic has not resumed on Delhi streets and fewer cars are being parked at the parking lot. Therefore, it would be fair that the Corporation to consider reduction of the monthly emoluments from Rs.11 lakhs to Rs.8 lakhs as was being paid earlier.

17. In the circumstances, till the decision in the application for modification, let the petitioner deposit an amount of Rs.9.5 lakhs per month. The payments shall be made as per the schedule fixed.

18. Renotify on 23.03.2021 i.e. the date already fixed.

19. The order be uploaded on the website forthwith."

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"O R D E R
25.03.2022

CM. APPLS. 13868-69/2022

1. Learned counsel for the petitioner under instructions submits that without prejudice to his rights and contentions, petitioner shall surrender



the parking lot on 31.03.2022. He, however, prays that respondent be directed to reconcile the accounts of the petitioner and also grant petitioner various eligible remissions as per the resolutions of the Corporation.

2. Learned senior counsel appearing for the Corporation submits that without prejudice to their rights and contentions, they are willing to accept the surrender of parking lot.

3. He submits that as per his instructions all admissible remissions have already been granted and petitioner is in arrears for over three months in terms of the order dated 18.12.2020. However, for purposes of reconciliation, petitioner may visit the office of Assistant Commissioner, RP Cell, Civic Centre, Minto Road, Delhi on 28.03.2022 at 3 P.M.

4. It is directed that on the said date, copy of the applicable resolutions as well as statement of accounts be furnished to the petitioner for the purposes of reconciliation. It is clarified that this is without prejudice to the rights and contentions of the parties. It is further clarified that surrender of parking lot on 31.03.2022 will be without prejudice to the reconciliation and not dependent on the same.

5. List on 26.07.2022.

6. Petitioner shall keep the bank guarantee alive during the pendency of this petition.”

2. W.P. (C) 8242/2019 has been filed by the respondent/contemnor herein *i.e.*, Dhananjay Kumar Jha (hereinafter referred to as “the contemnor”) seeking various prayers with regard to the parking site allotted to the contemnor by the MCD.

3. The contemnor was awarded the tender for running the parking site *vide* an offer letter dated 28.02.2019. The said parking site was awarded to the contemnor at a monthly license fee of Rs.12,56,786/-. However, subsequently, the contemnor is stated to have started defaulted in making payment of monthly license fee to the MCD, as a result of which, there was a dispute between the parties, and it is in the aforesaid background that, W.P. (C) 8242/2019 came to be filed.

4. *Vide* the aforesaid order dated 06.11.2020, certain interim reliefs were granted to the contemnor with regard to the parking site. The aforesaid order



dated 06.11.2020 was modified *vide* order dated 18.12.2020, in which, it was, *inter alia*, directed as under :-

“16.Mr. Wali submits that because of the reigning COVID-19 pandemic, the full volume of traffic has not resumed on Delhi streets and fewer cars are being parked at the parking lot. Therefore, it would be fair that the Corporation to consider reduction of the monthly emoluments from Rs.11 lakhs to Rs.8 lakhs as was being paid earlier.

17.In the circumstances, till the decision in the application for modification, let the petitioner deposit an amount of Rs.9.5 lakhs per month. The payments shall be made as per the schedule fixed.”

5. Thus, in terms of the order dated 06.11.2020, the contemnor was obliged to make a provisional payment of Rs.10 Lakhs per month with effect from July, 2020 and Rs.11 Lakhs per month with effect from November, 2020.

6. Further, importantly, the bank guarantees that had been encashed by the MCD were required to be replenished by the contemnor within one week from the date of the said order dated 06.11.2020. The MCD was constrained to encash the bank guarantee/s in view of the mounting arrears of license fee which had remained unpaid by the contemnor.

7. *Vide* order dated 18.12.2020, it was noticed by this Court that the contemnor had been divested of the parking site in question with effect from 29.10.2020. Resultantly therefore, the provisional payment at the rate of Rs.11 Lakhs per month was to be paid by the contemnor for the period 01.07.2020 till 29.10.2020. Further, *vide* para 8 of the order dated 18.12.2020, it was directed that in case the contemnor wishes to operate the parking site, he could do so.

8. Further, in terms of para 17 of the order dated 18.12.2020, the contemnor was obligated to pay a sum of Rs.9.5 Lakhs per month, as per the schedule fixed.



9. The contemnor, having exercised the option to operate the parking site in terms of the directions contained in the order dated 18.12.2020, was obliged to make the aforesaid payment of Rs. 9.5 lakhs per month.

10. The parking site in question was surrendered by the contemnor on 31.03.2022. This has been recorded in the order dated 25.03.2022 passed in W.P. (C) 8242/2019.

11. In the contempt petition filed on behalf of the MCD, it has been averred that the contemnor failed to pay even the substantially reduced amount in terms of the aforesaid order dated 18.12.2020.

12. It is submitted that despite having operated the parking site in question till 31.03.2022, substantial amount of license fee remained unpaid to the MCD. The MCD has filed a calculation of the unpaid parking fees as Annexure P-5 in CONT.CAS(C) 726/2022. The same is as under :-

Annexure P-5
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Parking site- Chander Ganga District Park, District Centre 120018 in front of Plot No. 8, 9, 10 & 11, Indraprastha Extension
M/s. Bhansingh Kumar & Co.
Date of document: 30.05.2019

Security Money/Rs. 12,55,786/- deposited with G-8(A), 37501 dated 18/12/2019 and Bank Guarantee with No. 803718016350002 dated 25.04.2019 of Rs. 25,14,072/-
MIP Rs. 12,56,786/- per month w.e.f. 30.12.2019

Period	Monthly MIP	Total due MIP	Full payment	Partial	Balance due	Days	Interest	Pen.	Interest	Amount
30.12.19 to 29.01.20	12,56,786	12,56,786	12,56,786	12,56,786	0	0	0	0	0	0
30.01.20 to 29.02.20	12,56,786	12,56,786	10,00,000	2,56,786	4,56,786	29	28,007	0	2,900	2,900
30.02.20 to 29.03.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	30	31,257	20	17,014	17,014
30.03.20 to 29.04.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	32,517	20	18,274	18,274
30.04.20 to 29.05.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	33,777	20	19,534	19,534
30.05.20 to 29.06.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	35,037	20	20,794	20,794
30.06.20 to 29.07.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	36,297	20	22,054	22,054
30.07.20 to 29.08.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	37,557	20	23,314	23,314
30.08.20 to 29.09.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	38,817	20	24,574	24,574
30.09.20 to 29.10.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	40,077	20	25,834	25,834
30.10.20 to 29.11.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	41,337	20	27,094	27,094
30.11.20 to 29.12.20	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	42,597	20	28,354	28,354
30.12.20 to 29.01.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	43,857	20	29,614	29,614
30.01.21 to 29.02.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	45,117	20	30,874	30,874
30.02.21 to 29.03.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	46,377	20	32,134	32,134
30.03.21 to 29.04.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	47,637	20	33,394	33,394
30.04.21 to 29.05.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	48,897	20	34,654	34,654
30.05.21 to 29.06.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	50,157	20	35,914	35,914
30.06.21 to 29.07.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	51,417	20	37,174	37,174
30.07.21 to 29.08.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	52,677	20	38,434	38,434
30.08.21 to 29.09.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	53,937	20	39,694	39,694
30.09.21 to 29.10.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	55,197	20	40,954	40,954
30.10.21 to 29.11.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	56,457	20	42,214	42,214
30.11.21 to 29.12.21	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	57,717	20	43,474	43,474
30.12.21 to 29.01.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	58,977	20	44,734	44,734
30.01.22 to 29.02.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	60,237	20	45,994	45,994
30.02.22 to 29.03.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	61,497	20	47,254	47,254
30.03.22 to 29.04.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	62,757	20	48,514	48,514
30.04.22 to 29.05.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	64,017	20	49,774	49,774
30.05.22 to 29.06.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	65,277	20	51,034	51,034
30.06.22 to 29.07.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	66,537	20	52,294	52,294
30.07.22 to 29.08.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	67,797	20	53,554	53,554
30.08.22 to 29.09.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	69,057	20	54,814	54,814
30.09.22 to 29.10.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	70,317	20	56,074	56,074
30.10.22 to 29.11.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	71,577	20	57,334	57,334
30.11.22 to 29.12.22	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	72,837	20	58,594	58,594
30.12.22 to 29.01.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	74,097	20	59,854	59,854
30.01.23 to 29.02.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	75,357	20	61,114	61,114
30.02.23 to 29.03.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	76,617	20	62,374	62,374
30.03.23 to 29.04.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	77,877	20	63,634	63,634
30.04.23 to 29.05.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	79,137	20	64,894	64,894
30.05.23 to 29.06.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	80,397	20	66,154	66,154
30.06.23 to 29.07.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	81,657	20	67,414	67,414
30.07.23 to 29.08.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	82,917	20	68,674	68,674
30.08.23 to 29.09.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	84,177	20	69,934	69,934
30.09.23 to 29.10.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	85,437	20	71,194	71,194
30.10.23 to 29.11.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	86,697	20	72,454	72,454
30.11.23 to 29.12.23	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	87,957	20	73,714	73,714
30.12.23 to 29.01.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	89,217	20	74,974	74,974
30.01.24 to 29.02.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	90,477	20	76,234	76,234
30.02.24 to 29.03.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	91,737	20	77,494	77,494
30.03.24 to 29.04.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	92,997	20	78,754	78,754
30.04.24 to 29.05.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	94,257	20	80,014	80,014
30.05.24 to 29.06.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	95,517	20	81,274	81,274
30.06.24 to 29.07.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	96,777	20	82,534	82,534
30.07.24 to 29.08.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	98,037	20	83,794	83,794
30.08.24 to 29.09.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	99,297	20	85,054	85,054
30.09.24 to 29.10.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	100,557	20	86,314	86,314
30.10.24 to 29.11.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	101,817	20	87,574	87,574
30.11.24 to 29.12.24	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	103,077	20	88,834	88,834
30.12.24 to 29.01.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	104,337	20	90,094	90,094
30.01.25 to 29.02.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	105,597	20	91,354	91,354
30.02.25 to 29.03.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	106,857	20	92,614	92,614
30.03.25 to 29.04.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	108,117	20	93,874	93,874
30.04.25 to 29.05.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	109,377	20	95,134	95,134
30.05.25 to 29.06.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	110,637	20	96,394	96,394
30.06.25 to 29.07.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	111,897	20	97,654	97,654
30.07.25 to 29.08.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	113,157	20	98,914	98,914
30.08.25 to 29.09.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	114,417	20	100,174	100,174
30.09.25 to 29.10.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	115,677	20	101,434	101,434
30.10.25 to 29.11.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	116,937	20	102,694	102,694
30.11.25 to 29.12.25	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	118,197	20	103,954	103,954
30.12.25 to 29.01.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	119,457	20	105,214	105,214
30.01.26 to 29.02.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	120,717	20	106,474	106,474
30.02.26 to 29.03.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	121,977	20	107,734	107,734
30.03.26 to 29.04.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	123,237	20	108,994	108,994
30.04.26 to 29.05.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	124,497	20	110,254	110,254
30.05.26 to 29.06.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	125,757	20	111,514	111,514
30.06.26 to 29.07.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	127,017	20	112,774	112,774
30.07.26 to 29.08.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	128,277	20	114,034	114,034
30.08.26 to 29.09.26	12,56,786	12,56,786	0,00,000	0,00,000	12,56,786	31	129,537	20	115,294	115,294
30.09.26 to 29.10.26	12,56,786	12,5								

MLF due	77,58,729
Interest	52,46,293
Penalty	8,34,771
Outstanding	1,13,39,793 note 19.32

Effective M/F on High Coast Order		
01.07.2020		11.00.000
01.11.2020		11.00.000
18.12.2020		5.530.000

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15. *Per contra*, learned counsel for the contemnor refutes the calculation



of license fee filed on behalf of the MCD. He submits that proper reconciliation in terms of the order dated 06.11.2020 has not been carried out at all. According to him, if a proper reconciliation had been carried out (taking into account the alleged reduced area of the parking site that was made available to the contemnor), a substantial amount would be refundable by the MCD to the contemnor. He further submits that the present petitions are not maintainable without proper reconciliation being carried out and consequent adjustments of amounts, as contemplated in para 9 of the order dated 06.11.2020.

16. He further submits that there has been no wilful disobedience on the part of the contemnor and pleads financial inability to pay the amounts demanded by the MCD.

17. Respective counsel for the parties have been heard at substantial length.

18. From the perusal of the aforesaid orders dated 06.11.2020 and 18.12.2020, it clearly transpires that (i) *vide* para 11 of the order dated 06.11.2020, the bank guarantee/security was required to be replenished by the contemnor; (ii) for the period commencing 18.12.2020, the contemnor was obliged to pay an amount of Rs.9.5 lakhs per month to the MCD for as long as it operated the parking site in question.

19. It is undisputed that the parking site in question was surrendered only on 31.03.2022, as recorded in the order dated 25.03.2022 passed in W.P. (C) 8242/2019.

20. During the course of hearing, it is not disputed that the bank guarantee/security was not replenished by the contemnor. It was also not refuted that there was an omission on the part of the contemnor to pay an



amount of Rs.9.5 lakhs per month at least for a period of four months *viz.* from 31.10.2021 till 29.11.2021 and from 30.12.2021 till 31.03.2022.

21. As such, it was inquired from the learned senior counsel for the contemnor as to whether the contemnor was agreeable to deposit with the MCD or in this Court, the amount payable for the aforesaid period to show its *bonafides*, especially considering that the parking site in question was admittedly surrendered only on 31.03.2022, till which date, the contemnor was obligated to pay an amount of Rs.9.5 lakhs per month in terms of the order dated 18.12.2020. However, the contemnor has expressed its inability to do so.

22. From the aforesaid narration, it is evident that the contemnor has taken the benefit of the aforesaid interim order(s) passed by this Court while paying scant regard to the conditions imposed by this Court while granting the said interim order(s).

23. *Vide* order dated 18.12.2020, the parking site in question was restored to the contemnor despite having been divested from the same with effect from 29.10.2020. The pre-condition for the same was that the contemnor would continue to pay a sum of Rs.9.5 lakhs per month to the MCD.

24. It is not disputed that even if the calculations of the MCD are disregarded (in terms of which the outstanding amount payable by the contemnor to the MCD is to the tune of Rs.1.1 crore), it is undeniable and not even been refuted by the contemnor that the monthly license fee at the rate of Rs.9.5 lakhs was not paid at least for the aforesaid period of four months prior to surrender of the site on 31.03.2022.

25. Despite being given an opportunity, the contemnor has expressed its inability to pay the said amount to the MCD or even to deposit the same in



this Court subject to the final adjudication of W.P. (C) 8242/2019.

26. As noticed above, it is also an undeniable fact that the bank guarantee/security had also not been replenished, in disregard of the directions contained in the order dated 06.11.2020.

27. It has been held by this Court in ***National Agricultural Co-op. Marketing Federation of India v. Lalit Mohan*** 2008 (105) DRJ 507, “when a party gives an undertaking to pay money to the opposite party and obtains benefit pursuant to the said undertaking, more so when the undertaking is to the court and accepted by the court, breach of the said undertaking, subject to it being wilful, would attract the contempt jurisdiction of the court.

28. The contemnor has not disputed the condition as to payment of amount as directed by this Court. Thus, on the one hand, it has taken benefit of the interim order(s) for the purpose of operating the parking site, and on the other hand, it did not comply with the direction(s) to pay the monthly license fee, as quantified in the same interim order(s). The contemnor has also not made any application to the Court for modification of the condition regarding payment of monthly license fee, and continued to enjoy the benefit of the interim order(s), while ignoring and defying the stipulations/directions as to payment of money. The appellant is thus, undoubtedly, in disobedience of the aforementioned conditions imposed by this Court while granting interim relief to the contemnor.

29. Also, no application was filed by the contemnor seeking any exemption from replenishing the bank guarantee/security as expressly directed *vide* order dated 06.11.2020.

30. In case, the contemnor was not in a position to adhere to the conditions as regards payment of Rs. 9.5 lakhs per month, it ought to have



surrendered the said parking site in question much prior to 31.03.2022. However, the contemnor chose to continue to take benefits of interim orders passed by this Court while failing to adhere to the pre-condition imposed by this Court. As such, the aforesaid disobedience on the part of the contemnor was clearly wilful.

31. As a result of the aforesaid conduct on the part of the contemnor, the MCD is confronted with a situation where according to it, the unrealized amount of the license fee is to the tune of Rs.1.1 crores. The arrears of unpaid license fee have mounted because the contemnor did not surrender the parking site in question till 31.03.2022, and continue to retain the same by virtue of interim order/s passed by this Court. At the same time, the discretions in the said interim order/s regarding replenishment of bank guarantee/s and payment of monthly amount of Rs. 9.5 lakhs, have been disregarded with impunity.

32. In the circumstances, in view of the wilful disobedience on the part of the contemnor with the directions contained in the aforesaid orders dated 06.11.2020 and 18.12.2020, the said contemnor is held guilty of having committed Contempt of Court under section 2(b) read with Section 10 and Section 12 of the Contempt of Courts Act, 1971.

33. List for orders on sentencing on 18.07.2024.

34. The respondent/contemnor is directed to remain personally present in Court on the next date of hearing.

SACHIN DATTA, J

APRIL 22, 2024/ *rp,dk*