

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL SIDE JURISDICTION

CONTEMPT PETITION NO.23 OF 2011
ALONGWITH
CHAMBER SUMMONS NO.949 OF 2012
IN
EXECUTION APPLICATION NO.1201 OF 2012
IN
SUIT NO.2763 OF 2009

Bhagat Housing & Development P. Ltd. ... Petitioners
Vs.
Karm Yogi Property Developers P. Ltd & Ors... Contemnors /
Respondents
Mr. T K Cooper, Adv. a/w. S J Khera, Adv. for petitioner.
Mr. Madon, Adv. i/b. Sachin Mhatre, Adv. for respondent Nos.1 & 2.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 9th July, 2015.

P.C. :

1. The Contempt Petition deals with breaches of certain terms of the consent terms dated 8th February, 2011. Upon the breach of the consent terms the decree as prayed became executable. The defendant thereafter paid the decretal amount as per prayer (a) of the plaint. On this amount the statutorily required TDS was not deducted and the plaintiff was not issued the TDS certificate. The plaintiff hence had to pay TDS amount together with interest and penalty in sum of Rs.92 lacs. The plaintiff claims that amount from the defendant. The defendant has paid Rs.68 lacs separately. Rs.34 lacs is due and payable. The defendants bank account has been freezed. The defendant would claim that the attachment on various flats of the defendants be raised and the bank accounts be defreezed because the decretal amount is paid. However, since the TDS amount was not paid within time and penalty and interest to the extent of Rs.34 lacs is still payable, attachment of all the flats cannot be raised. The bank accounts can be only ordered to be defreezed if the balance in the

account is paid to the plaintiff in part settlement of the aforesaid statutory dues.

2. Hence the following order.

1. There shall be no order in the Contempt Petition.
2. One immovable property which is the office premises A/004, Prathamesh Horizon, New M H B, Colony, Borivili (W), Mumbai 400 091 has been attached. It is stated to belong to partnership firm of defendant No.2 in which defendant No.2 as also his wife and brother are partners. The attachment on the said office shall continue till the sum of Rs.34 lacs along with interest thereon @ 6% pa from the date of this order is paid to the advocate for the plaintiff and if not accepted by advocate for the plaintiff, deposited in the Court.
3. The attachment on the other immovable properties mentioned in prayer 'a' of the Chamber Summons is raised.
4. 6 bank accounts in three banks described in prayer 'b' of the Chamber Summons are freezed.
5. The accounts shall be defreezed only for making the payment of the aforesaid sum of Rs.34 lacs or part thereof remaining due and payable with the aforesaid interest thereon for the aforesaid period to the plaintiff.
6. It is clarified that the defendant has made certain statements of breach committed by the plaintiff. However no separate application upon breach is taken out by the defendants. Hence those statements cannot be and are not considered.
7. Chamber Summons as well as Contempt Petition are disposed of accordingly.

(ROSHAN DALVI, J.)