

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CONTEMPT PETITION NO.213/2015

IN

WRIT PETITION NO.2985/2011 (D)

Toshiba Corporation through its Proprietor Mrs. Shakuntala w/o Damodharlal

Toshnival

...Versus...

Shri J.B. Sangitraoji, Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri H.R. Gadhia, Advocate for petitioner
Shri M.M. Agnihotri, Advocate for respondent nos.1 and 2

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 14.10.2015

By this contempt petition, the petitioner seeks action against the respondents for wilful disobedience of the order dated 24.7.2012 in W.P. No.2985/2011.

It is stated that though a statement was made by the learned Counsel for the respondent no.2 that a fresh tender notice shall be issued within a period of two months, the respondents have not issued a tender notice till date. It is stated that the petitioner's earnest money deposit has also not been returned.

The learned Counsel for the respondents states that the earnest money deposit amount was returned to the petitioner by registered post acknowledgment but the petitioner had refused to accept the same. It is stated that the petitioner had filed a

Special Leave Petition against the order of which the contempt is alleged and the same was dismissed. It is stated that however the petitioner stated in his representation to the Hon'ble Chief Minister on 13.2.2015 that the S.L.P. was pending. It is stated that though there is no direction to the respondents to issue a fresh tender notice within a period of two months, the respondents are desirous of issuing a tender notice within a reasonable time.

We do not find that there is a contempt by the respondents of the directions issued by this Court. In fact, the petition filed by the petitioner against the cancellation of the tender notice was dismissed by this Court by recording several reasons. It was only stated in the order of which the contempt is alleged that the Counsel for the respondents had stated that a fresh tender notice shall be issued. The said statement made by the Counsel for the respondents was not an undertaking to this Court at all. The case of the petitioner was dismissed in the absence of any merit, in the same. The S.L.P. filed by the petitioner was also dismissed. There was no reason for the petitioner to file the contempt petition. If the petitioner had refused to accept the earnest money deposit in the year 2011, the petitioner is at fault. The petitioner could not have filed the contempt petition for non-refund of the earnest deposit as a direction to the respondents to return the earnest deposit is not issued by the order dated 24.7.2012 of which the contempt is alleged. We make it clear that the statement made by the learned Counsel for the respondents in this contempt petition that the respondents would issue a fresh tender notice would not have a

binding effect on the respondents, in the circumstances of the case.

With the aforesaid observations, we drop the contempt proceedings initiated against the respondents. The contempt petition is dismissed with no order as to costs.

JUDGE

JUDGE

Wadkar