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

+ **CONT.CAS(C) 320/2011**

M. ARUMUGAM AND ANR. Petitioners
Through **Mr. Vishesh Issar, Advocate**

versus

VIMAL AGENCY AND ORS. Respondents
Through **Mr. Harsh Sharma, Advocate for R-2.**
Mr. Rakesh Pathak, Advocate for R-3.

% Reserved on : 29th September, 2015
Date of Decision: 02nd November, 2015

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J:

1. Present petition has been filed alleging wilful disobedience of order dated 7th December, 2010 passed in Cont. Cas. (C) 908/2009 wherein the matter was disposed of based on statements made by the respondents. Respondent no. 1 and 2 had stated that they shall furnish the original FDR after all formalities regarding verification of the petitioners are completed. Respondent no. 3 being Canara Bank had stated that they shall release the money to the petitioners once they receive the original FDR.
2. After passing of the said order, the Director of the respondent no. 1 Mr. K.A.S. Ravi passed away and his legal heirs were impleaded in the

present petition vide order dated 9th May, 2012. However, the LR's of the Director of respondent no. 1 failed to appear and were proceeded ex parte.

3. The issue raised in the present petition is non-payment of money by the respondent no. 3-Canara Bank to the petitioners, who were alleged winners of prize in the lottery organized by respondent no. 2 through their agent, respondent no. 1. The petitioners herein filed civil proceedings for payment of the prize money which was disposed of vide order dated 31st March, 2009 on the basis of a settlement according to which the respondent no. 3 was to release the amount to the prize winners after satisfying their identity and genuineness. When the Bank refused to release the prize money to the petitioners herein, the said order was modified by Shri Dinesh Bhat, Additional District Judge on 8th October, 2009 wherein the Bank was asked to release the amount along with interest after verification as per their rules.

4. The petitioners informed the respondent no. 3 about the said order. However, respondent no. 3 refused to release the prize money because the original FDR under which the prize money was deposited by the respondent no. 1 had not been made available to them.

5. During the course of arguments, the counsel for the respondent no. 3 stated that if the LR's of respondent no. 1 were willing to provide requisite indemnity to the bank in absence of the FDR, the bank would release the money to the petitioners. As the LR's of the respondent no. 1 had been evasive, the petitioners stated that they were willing to provide the requisite indemnity to the Bank/respondent no. 3 against any claimant that may subsequently claim the prize money awarded to them. This suggestion of the petitioners was however rejected by the respondent no. 3/Bank on the ground that the procedure of the Bank was when original deposit receipt was

not available, the money could be paid only either after getting an indemnity bond from the legal heirs of the deceased depositor or on the express direction of the Court.

6. In the present scenario, this Court in contempt jurisdiction cannot direct the respondent no. 3-Canara Bank to release the funds to the petitioners because there is no wilful disobedience on the part of the respondent no. 3 as long as they are not indemnified by the legal representatives of respondent no. 1 or the original FDR is not made available to them.

7. Further, it is observed that contempt cannot be made out against the legal representative of respondent no. 1 for non-compliance of a statement that had been made by their predecessor-in-interest being respondent no. 1.

8. The Supreme Court in *All India Anna Dravida Munnetra Kazhagam Vs. L.K. Tripathi and Others*, (2009) 5 SCC 417 has held that contempt is a quasi criminal act and as such the standard of proof required is that of a criminal proceeding.

9. Accordingly, the present contempt petition is dismissed and notices issued are discharged.

10. However, petitioners are given liberty to file appropriate legal proceedings in accordance with law to seek execution/enforcement of the order dated 31st March, 2009 as modified vide order dated 8th October, 2009.

MANMOHAN, J

NOVEMBER 02, 2015

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