

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO. 5 OF 2015
IN
COMPANY APPLICATION NO. 575 OF 2012
IN
COMPANY PETITION NO. 206 OF 2011**

**Douceur Sportswear Mfg. Co. Pvt. ...Petitioner
Ltd.**

Versus

Mr. Ahojan Sah & Anr. ...Respondents

Mr. Bharat Gandhi, a/w Mr. Viraj Kandpile, i/b K.C. Pandey,
for the Petitioner.

Mr. Neelesh V. Kalantri, for Respondents.

**CORAM : B.P. COLABAWALLA, J.
DATE : 8th June 2016**

P.C. :

1. This Contempt Petition has been filed by the Petitioner Douceur Sportswear Mfg. Co. Pvt. Ltd. alleging willful disobedience of the order dated 23rd October 2012 passed by this Court in Company Application No. 575 of 2012 in Company Petition No. 206 of 2011. It is the submission of the Petitioner that in the said order in

paragraph 5 categorically states that the official liquidator not to take further steps of taking possession of the assets of the Applicant/original Respondent Company (namely the Petitioner herein). It is the case of the Petitioner that this is the portion of the order that has been violated. The 1st Respondent in the Petition is Land Revenue Officer and Respondent No. 2 is the Secretary of Gujarat Labour Union. As far as Respondent No. 1 is concerned, the learned Counsel appearing on behalf of the Petitioner has very fairly argued that he is not pressing the Contempt Petition against the 1st Respondent. The said statement is accepted.

2. As far as Respondent No. 2 is concerned, I find that the order dated 23rd October 2012 only restrained the official liquidator from taking any further steps to take possession of the assets of the Petitioner. The 2nd Respondent Union or its Secretary was not a party to the said order and neither had they been restrained in any manner whatsoever. In the facts of the present case, since the dues of the workers have not been paid, they had approached the Valsad Labour Court, which has passed a decree in their favour of Rs. 41.56 Lacs. Since this decree

was unsatisfied, the same was sought to be executed pursuant to which the orders have been passed with reference to the properties of the Petitioner Company, which is at page 24 of the paper book. Exercising powers under Section 154 of the Land Revenue Act, the Taluka Development Officer, Pardi has passed an order to lock and seal the premises of the Petitioner Company having their address at Plot No. A-1, 1716, 3rd Phase, G.I.D.C., Vapi, Taluka Pardi, District Valsad.

3. I do not think that any action taken by the Union for recovery of dues of its workers in any way is in violation of the order passed by this Court on 23rd October 2012. As mentioned earlier, the order dated 23rd October 2012 only directed the official liquidator not to take further steps of taking possession of the assets of the Petitioner Company. In this view of the matter, I find no merit in this Contempt Petition.

4. This only leaves me to deal with the Judgment of the Supreme Court in the case of **The Advocate General, State of Bihar Vs. M/s. Madhya Pradesh Khair**

Industries and another¹. The learned Counsel appearing on behalf of the Petitioner, relying upon the aforesaid Judgment, has contended that the 2nd Respondent has abused the process of the Court by participating in the proceedings before the official liquidator for recovery of their dues in the teeth of the order passed by this Court on 23rd October 2012. In particular, the learned Counsel relied upon paragraph 7 of the said Judgment. On going through the said decision, I find that the same is wholly inapplicable in the facts of the present case. The observations made by the Supreme Court in the said paragraph were with reference to criminal contempt as defined in Section 2(c) of the Contempt of Courts Act, 1971. In the present case, admittedly, the contempt alleged against the 2nd Respondent is civil contempt. As held earlier, by the order dated 23rd October 2012, this Court only restrained the official liquidator from taking steps of taking possession of the assets of the Petitioner herein. There was no restraint on the 2nd Respondent from initiating action to ensure that the dues of their workers are paid by the process known to law. I do not find that in the present case there is any abuse of

¹ AIR 1980 SC 946

the process of the Court as contemplated by the Supreme Court in the case of **The Advocate General, State of Bihar** (supra).

5. In this view of the matter, I find no merit in this Contempt Petition and the same is accordingly dismissed. Hence, there shall be no order as to costs.

[B.P. COLABAWALLA, J.]