

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

Criminal Writ Petition No.854/2015

(Hariom Yograj Sahni .vs. M/s National Building Constructions and others.)

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

Court's or Judge's orders.

Mr. G.L. Bajaj, Advocate for Petitioner.
Mr. R.M. Sharma, Advocate for Respondents 1 to 4.

CORAM : B.R. Gavai & Mrs. Swapna S. Joshi, JJ.
DATED : April 05, 2016.

The petition challenges the order passed by the learned Judicial Magistrate First Class, Special Court for Section 138 of the Negotiable Instrument Act, dated 7.7.2015.

It is the contention of the petitioner that in a complaint filed by the present petitioner under Section 138 of the Negotiable Instrument Act, the matter was referred to mediation.

Before the learned Mediator, the matter was settled and the compromise undertaking was signed by the parties. It is the contention of the petitioner that now the respondents have resiled from the said compromise and as such have committed the breach of the undertaking given to the Court.

Mr. Bajaj, learned counsel for the petitioner submits that since an undertaking was given by the respondents, they were bound to comply with the same and if they have breached the undertaking, it will be clear case of the contempt.

Perusal of the impugned order so also the

record would reveal that the matter was settled before the learned Mediator and the compromise pursis was also signed by the parties. Immediately thereafter the respondents have resiled therefrom before any orders could be passed. If the compromise is accepted and an order accepting the same and recording an undertaking is passed by the Court, it can be said to be an order of the Court. In the present case, there is no such order passed by the learned Judicial Magistrate First Class.

In that view of the matter, we do not find that any error is committed by the learned J.M.F.C. in passing the order impugned. The writ petition is rejected.

JUDGE

JUDGE

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