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

+ **CONT.CAS(C) 129/2016**

NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through Ms.Madhu Tewatia with Mr.Adhirath
Singh and Mr.Sachin Saini,
Advocates.

versus

A K PUTHIA NORTHERN RAILWAYS & ANR Respondents

Through Ms.Geetanjali Mohan, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **15.12.2016**

Present contempt petition has been filed alleging wilful disobedience of the order dated 12th August, 2015 passed in W.P.(C) No.7654/2015. The operative portion of the order dated 12th August, 2015 is reproduced hereinbelow:-

“7. In view of the aforesaid, the petitioner is disposed of with the following directions:-

- (I) The secretary, Ministry of Urban Development is requested to, within fifteen days hereof, convene a meeting of the petitioner NR and the respondent No.1 to 3 Nr.DMC for resolving the said issues and to also nominate an officer of the Ministry to participate in the said meeting and to commence further meetings if any required.*
- (II) A copy of this order be communicated forthwith by the petitioner NR to the Secretary, Ministry of Urban Development for compliance.*
- (III) The Divisional Railway Manager, Delhi Division, Northern Railways along with such other officers of other Departments of the Railways who presence may be required, shall participate in the said meeting/s.*

- (IV) Similarly, on behalf of the respondents No.1 to 3 NrDMC, the Commissioner, NrDMC along with other concerned officials shall participate in the said meeting/s.*
- (V) The parties are directed to positively attempt to find an amicable solution on or before 30th November, 2015.*
- (VI) The petitioner NR to, within one month hereof, assess up to date amount due according to it towards the service charges and to, within ten days thereafter, deposit the same with the respondents No.1 to 3 NrDMC.*
- (VII) All the rights and contentions of the parties are left open and the parties, if the matter remains unresolved, shall be entitled to take fresh proceedings with all the pleas taken therein, in accordance with law.”*

Learned counsel for the petitioner states that though a meeting had been convened by the Secretary, Ministry of Urban Development, wherein he had directed the respondents to pay the service charges @ 75% of property tax to North DMC, the respondent-Northern Railways has only paid an adhoc amount of Rs.20 lakhs without filing any assessment and without disclosing the details of its properties.

On the other hand, learned counsel for the respondent-Northern Railways states that the respondents have not accepted the decision of the Secretary, Ministry of Urban Development and they are contemplating to take recourse to a legal remedy available to them.

Learned counsel for the respondents also states that after taking into account initial payment of Rs.9.86 crores against the property tax, Rs.10.06 crores has been paid to the petitioner till date. She further points out that a demand of Rs.167.57 crores is outstanding against the petitioner towards various services and facilities availed by it.

Having heard the learned counsel for the parties and having perused the order dated 12th August, 2015 in detail, this Court is of the view that the intent of the said order was to see if the matter could be amicably resolved between the petitioner-North DMC and the respondents-Northern Railways as both of them are Government entities.

It is pertinent to mention that para 7(vii) specifically stipulates that all the rights and contentions of the parties are left open and if the matter remains unresolved, both parties would be entitled to file fresh proceedings with all the pleas taken in the said petition.

In view of the aforesaid liberty, it cannot be held that the respondents have committed a wilful disobedience of the order dated 12th August, 2015 by not filing the assessment and by not disclosing the nature and extent of their properties.

Moreover, as the respondents have huge counter-claims against the petitioner, which though disputed, it cannot be held that the respondent's defence is a 'figment of imagination' or a 'ruse'.

Consequently, as the defence of the respondents is not malafide this Court cannot reach the conclusion in the present proceedings that disobedience, if any, by the respondents is wilful.

Accordingly, the present contempt petition is dismissed.

MANMOHAN, J

DECEMBER 15, 2016/KA