

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

CONTEMPT PETITION NO. 159 OF 2015

Manohar Singh Rajpur & Ors.	... Petitioners
V/s.	
Mr. Pramod K. Jain, Director, M/s. Daistar Jewellery Ltd. & Anr.	... Respondents

Mr. Sagar Batavia i/b Angad Giri for the Petitioners.
Mr. Vishal Chavan for the Respondents.

**CORAM : K. K. TATED, J.
DATED : 13/04/2017**

PC.:

. Heard learned Counsel for the parties.

2 By this contempt petition, the petitioners allege that the Respondents failed and neglected to comply the order dated 17.09.2013 passed by this Court (Coram : A.A.Sayed, J) in Writ Petition No. 10606 of 2012. He submits that this Court by order dated 17.09.2013 directed the Respondents to deposit 1/4th of 25% of the back wages as granted by the Labour Court within six weeks. He submits that as the Respondents failed and neglected to comply the said order within stipulated time. Hence, they preferred contempt petition for taking action against the respondents/contemnors under the Contempt of Court Act.

3 On the other hand, the learned counsel for the Respondents Contemnors submits that during the pendency of the present Contempt Petition, they have deposited Rs. 7,08,434/- in the Registry

of this Court. Those facts are admitted by the learned Counsel for the petitioners.

4 The learned Counsel for the Respondents submits that as the Respondents complied order dated 17.09.2013 in Writ Petition No. 10606 of 2012 nothing survives in the present Contempt Petition.

5 The learned Counsel for the Respondents submits that because of financial difficulties, it remained on their part to comply the order passed by this Court in Writ Petition. He submits that to that effect they filed affidavit-in-reply dated 26.11.2015 duly affirmed by Pramod Kumar Jain and Prakash Singh Shekhawat. He submits that they specifically stated in paragraph 4 of the said affidavit-in-reply that Respondent Company was not carrying on full fledged business and there was no generation of income from the said Company. In support of this contentions, he relies on paragraph 4 of the said affidavit-in-reply dated 26.11.2015, which reads thus:

“4. We submit that the Respondent Company is not carrying on full-fledged business and there is no income generated from the Company to employ and or run/carryon business in the scale and size that the Respondent Company was carrying on a the time of the events set out in the complaint of 1996/1997 filed by the Petitioners herein. We submit that the Company had/has severe financial crunch and has defaulted payments to financial institutions, resulting in the Company becoming a Non Performing Asset (NPA) with the bankers/borrowers. We submit that the consortium of bankers have attached the properties of the Company and proclaimed auction sale. We respectfully submit that the Respondent Company is not in financially position to make payment of back wages to the Petitioners and or reinstate them. We respectfully submit that there is therefore no intention on our part to disrespect or dishonor the orders of

this Hon'ble Court.”

6 The learned Counsel for the Respondents submits that now during the pendency of the present Contempt Petition, they complied the order passed by this Court dated 17.09.2013. He submits that in the interest of justice, this Hon'ble Court be pleased to dismiss the Contempt Petition.

7 I heard both the sides at length. It is to be noted that during the pendency of the present Contempt Petition, respondents contemnors complied the order dated 17.09.2013 by depositing sum of Rs.7,08,434/- in the Registry of this Court. In view of the subsequent development, I do not find any reason to take any action against the Respondents because they already explained their financial condition in their affidavit-in-reply dated 26.11.2015. But, at the same time, there was delay on the part of the Respondents of more than 4 years to comply the said order, therefore, they have to pay costs to the Petitioners. Costs is quantified of Rs.10,000/-.

8 Hence, following order is passed:

- a) Contempt Petition stands rejected.
- b) The Respondents to pay costs of Rs.10,000/- to the petitioners within four weeks from today, failing which liberty granted to the petitioners to make an appropriate application in the present Contempt Petition for taking action against the Respondents.
- c) Contempt Petition stands disposed of accordingly.

(K.K.TATED, J.)