

HON'BLE SRI JUSTICE S.V. BHATT

C.C. No.535 OF 2017

ORDER:

Heard Mr.M.Ravindranath Reddy for petitioner and Ms.M.Vidyavathi for respondents.

C.C.No.535 of 2017 is filed complaining disobedience of order dated 05.01.2017 in W.P. No. 46270 of 2016. The order dated 05.01.2017 reads as follows:

“At request of learned Government Pleader, post on 17.01.2017.

The Court has substantially heard the petitioners and also the learned counsel.

The respondents are directed to produce the record of subject tenders on 17.01.2017.

It is made clear that pursuant to the order dated 02.01.2017, if any further steps are (sic) taken in this behalf, the respondents shall ensure that third party interest is not created in the meantime.”

On 10.03.2017, the present contempt case is filed and the disobedience complained against the respondents is as follows:

“ I submit that now while matter is pending for production of record, the proposed 2nd respondent vide proceedings dated 09.03.2017 has awarded the contract to Sakti's Kitchen Pvt. Ltd with respect to Dining hall 3 mess. This Action of the proposed 2nd respondent amounts to deliberate and intentional violation of orders dated 05.01.2017 of this Hon'ble Court and respondent No.1 is also liable to be punished for the said violation as the same is done under his supervision and instructions. Hence, the respondents are liable to be

punished under Sections 10 to 12 of Contempt of Courts Act.”

Respondents on the alleged creation of 3rd party interest have stated as follows:

The executive committee on the report of tender committee has taken a decision to re-notify the tender insofar as Mess Nos. I, II, III and IV, except Mess No.V. M/s.Sakthi's Kitchen (P) Limited offered the lowest price. The allegation that contract is awarded to M/s. Sakthi's Kitchen (P) Limited is incorrect, for despite the executive committee's decision, the institute has not awarded contract to M/s.Sakthi's Kitchen (P) Limited. It is further stated that an application is filed seeking modification of the interim order dated 05.01.2017. The respondents further allege that the contract to M/s. Sakthi's Kitchen (P) Limited is not awarded.

Having regard to the assertion in the counter affidavit of respondents, the Court desired to know from the petitioner whether the petitioner, as a matter of fact, can prove the creation of 3rd party interest by placing material on record. Mr.Ravindranath Reddy submits that his client is not having document showing creation of 3rd party interest. The grievance in the contempt case is that the respondents created 3rd party interest by awarding contract in spite of the interim direction dated 05.01.2017. The reply of respondents is that the institute in spite of recommendations from the executive committee, did not create 3rd party interest. The allegation of disobedience is with reference to award of contract

to 3rd party. Unless and until the allegation is prima facie brought home, the jurisdiction of contempt cannot be proceeded with or respondents are subjected to order of punishment. The petitioner failed to make out that there is disobedience of the Court order. For the above reasons, the contempt fails and is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 21.07.2017

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