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

+ **CONT.CAS(C) 157/2017 & C.M.No.7069/2017**

UNITED INDIA PERIODICALS PVT LTD Petitioner

Through **Ms.Shyel Trehan, Advocate.**

versus

OM PRAKASH GUPTA & ANR Respondents

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **21.02.2017**

Present contempt petition has been filed alleging wilful disobedience of settlement agreement dated 11th November, 2016, affirmed vide order dated 21st November, 2016, passed by a Coordinate Bench of this Court in CS (COMM) No.1074/2016, whereby the respondents undertook to pay a total sum of Rs.2,07,24,921 to the petitioner in 24 equated monthly instalments of Rs.8,63,538.36, payable by the tenth day of each month starting from 10th January, 2017. The respondents further undertook to pay rent of Rs.9,11,140 by the tenth day of each month starting from December, 2016.

Ms.Shyel Trehan, learned counsel for the petitioner states that despite the aforesaid order as well as settlement, the respondents have not paid any amount to the petitioner till date.

However, a perusal of the paper book reveals that the settlement agreement dated 11th November, 2016 was accepted by the

Court vide order dated 21st November, 2016 and the parties were held bound by the settlement.

The Supreme Court in ***Kanwar Singh Saini Vs. High Court of Delhi, 2012 (4) SCC 307*** has held as under:-

“26. The case requires to be considered in the light of the aforesaid settled legal proposition. Whatever may be the circumstances, the court decreed the suit vide the judgment and decree dated 12-5-2003. The said decree was passed on the basis of admission/undertaking made by the appellant on 29-4-2003 and the pleadings taken by him in his written statement. Therefore, in a case where there was any disobedience of the said judgment and decree, the application under Order 39 Rule 2-A CPC should not have been entertained. Such an application is maintainable in a case where there is violation of interim injunction passed during the pendency of the suit. In the instant case, no interim order had ever been passed. Thus, the appropriate remedy available to the decree-holder Mohd. Yusuf had been to file application for execution under Order 21 Rule 32 CPC. The procedure in execution of an injunction decree is same as prescribed under Order 39 Rule 2-A i.e. attachment of property and detention of the disobedient to get the execution of the order. In view thereof, all subsequent proceedings were unwarranted.

27. The application of the decree-holder had been for violation of the undertaking which at the most could be civil contempt as defined under Section 2(b) of the 1971 Act as it includes the wilful breach of an undertaking given to a court. Therefore, the trial court failed to make a distinction between civil contempt and criminal contempt. A mere disobedience by a party to a civil action of a specific order made by the court in the suit is civil contempt for the reason that it is for the sole benefit of the other party to the civil suit. This case remains to the extent that, in such a fact situation, the administration of justice could be undermined if the order of

a competent court of law is permitted to be disregarded with such impunity, but it does not involve sufficient public interest to the extent that it may be treated as a criminal contempt. It was a clear-cut case involving private rights of the parties for which adequate and sufficient remedy had been provided under CPC itself, like attachment of the property and detention in civil prison, but it was not a case wherein the facts and circumstances warranted the reference to the High Court for initiating the proceedings for criminal contempt.”

(emphasis supplied)

Consequently, this Court is of the view that the petitioner has an alternative effective remedy by way of execution proceedings.

Accordingly, the present contempt petition is disposed of with liberty to the petitioner to file the execution proceedings.

MANMOHAN, J

**FEBRUARY 21, 2017
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