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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 339/2017 & CM APPLs. 16790-16791/2017

ONICRA CREDIT INFORMATION CO LTD Petitioner

Through Mr. Amish Tandon with Mr. Ayush
Beotra, Advocates

versus

SCENTA JOY & ANR

Through

..... Respondents

Mr. Suhail Dutt, Senior Advocate
with Mr. H.S. Parihar, Mr. Kuldeep
Parihar, Mr. Azhar Alam and
Mr. Sankalp Goswami, Advocates

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Date of Decision: 02nd May, 2017**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****J U D G M E N T****MANMOHAN, J: (Oral)**

1. Present contempt petition has been filed alleging wilful disobedience of the order dated 21st April, 2016 passed in W.P (C) No. 6775/2011 whereby respondent-RBI was directed to decide the petitioner's application for registration in terms of Section 4 of the Credit Information Companies (Regulation) Act, 2005 [for short 'Act, 2005'] on or before 20th August, 2016 and communicate its decision to the petitioner.

2. Upon an appeal being filed by the respondent-RBI, the Division Bench in LPA No. 370/2016 vide order dated 31st May, 2016 upheld the learned Single Judge's direction with a modification, i.e., respondent-RBI while considering the petitioner's application, if it so deems necessary can also simultaneously enter upon a determination under Section 5(3) of the Act, 2005.

3. Learned counsel for the petitioner states that in violation of the aforesaid orders the respondent-RBI vide the order dated 22nd August, 2016 has again rejected petitioner's application for grant of certificate of registration under the Act, 2005 on the ground that total number of credit information companies presently carrying on the business of credit information in India is adequate and that as of now, there is no requirement for another Credit information company in the country.

4. Learned senior counsel for respondents who appears on advance notice states that petitioner had suppressed the fact that on the same allegations it had withdrawn a subsequent application seeking clarification/direction from the Division Bench. He points out that the prayer in the said application was to clarify that the impugned letter under Section 5(3) of the Act, 2005 does not relieve the RBI from complying with the orders dated 21st April, 2016 and 31st May, 2016. In support of his submission, he has today in Court, handed over a copy of the aforesaid application and the order passed thereon. The same are taken on record.

5. Having heard learned counsel for parties, this Court is of the view that petitioner owed a duty to disclose in the present contempt petition as well as during the course of arguments that it had withdrawn an application seeking clarification/direction on the same allegations in the disposed of LPA

No.370/2016.

6. This Court is also of the view that Section 5(3) of the Act, 2005 gives the discretionary power to RBI to determine the total number of credit information companies which may be granted the certificates of registration.

7. Since in the present case the RBI was of the opinion that the total number of existing credit information companies carrying on the business of credit information in India is adequate and there is no requirement for another credit information company in the country, this Court is of the view that the impugned order does not constitute wilful disobedience of the order of learned Single Judge dated 21st April, 2016 as modified by the Division Bench vide order dated 31st May, 2016.

8. The Supreme Court in *Sahdeo alias Sahdeo Singh vs. State of Uttar Pradesh & Ors.*, (2010) 3 SCC 705 after referring to the Constitution Bench judgment in *State of Bihar vs. Sonabati Kumar*, AIR 1961 SC 221 has held that the provisions of Contempt of Courts Act, 1971 deal with the wilful defiance of the order passed by the court and order of punishment is not to be passed if the court is satisfied that the party was, in fact, under a misapprehension as to the scope of the order or there was an unintentional wrong for the reason that the order was ambiguous and reasonably capable of more than one interpretation or the party never intended to disobey the order but conducted itself in accordance with the interpretation of the order.

9. In the present case, this Court is of the opinion that the order of the RBI is based on a bona fide interpretation of the orders of learned Single Judge and the Division Bench. Consequently, no case of contempt of court is made out. If the petitioner is aggrieved by the order dated 21st April, 2016, it is always open to it to challenge the same in accordance with law.

10. With the aforesaid liberty, present contempt petition and applications stand disposed of.

MANMOHAN, J

MAY 02, 2017

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