

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.468/2018
IN
WRIT PETITION (ST) NO.24295/2016
WITH
WRIT PETITION NO.9825/2016
AND
WRIT PETITION (ST) NO.24296/2016
WITH
WRIT PETITION NO.20090/2016

Asset Reconstruction Co. (I) Ltd. ... Petitioner

V/s.

Amma Lines Pvt. Ltd. ... Respondent

Mr. Venkatesh Dhond, Senior Advocate with Shakib Dhorajiwala,
Supriaya Mujumdar i/b. Vidhi Partners for the Petitioner

**CORAM: K.K. TATED &
N. J. JAMADAR, JJ.**

DATED : NOVEMBER 1, 2018

P.C. :

1 Heard. Yesterday the matter was argued by the learned senior counsel for the Petitioner. After arguing for some time, the matter was kept today to enable the learned senior counsel for the Petitioner to take instructions whether their client wishes either to proceed with the matter or withdraw the Contempt Petition.

2 The learned senior counsel for the Petitioner submits that he does not have any instructions as on today.

3 By this Contempt Petition, the Petitioner alleges that the Respondents have violated the undertaking given by them before this court as per order dated 06.09.2016 in Writ Petition (ST) No.24295/2016 with Writ Petition No. 9825/2016 with Writ Petition (ST) NO.24296/2016 with Writ Petition (ST) No.20090/2016.

4 The learned senior counsel for the Petitioner submits that when all those Writ Petitions were on board before this court, the Respondents agreed to vacate the suit premises on or before 15.12.2016. He submits that though the Respondents gave an undertaking before this court, they failed and neglected to vacate the suit premises i.e. a row house bungalow No.3, Ground Floor, Madhuli Row Premises, Behind Shiv Sagar, 4, Dr. Annie Besant Road, Worli, Mumbai - 400018.

5 The learned senior counsel for the Petitioner submits that thereafter in Original Application No.122/2013 before the Debts Recovery Tribunal, Mumbai, the Petitioner as well as the Respondents filed consent minutes of order dated 22.01.2018. He submits that even as per the consent minutes of order dated 22.01.2018, the Respondents failed and neglected to repay the entire amount and /or to comply with the undertaking given by them before this court. Hence, the Respondents may be punished under the Contempt of Courts Act.

6 It is to be noted that in the present proceedings, initially this court had passed order on 06.09.2016 (Exhibit-A page 22 of the Contempt Petition). Pursuant to the said order, the Respondent filed undertaking that they will handover vacant and peaceful possession of the suit premises to the Petitioner on or before 15.12.2016. Thereafter the parties obtained consent order dated 22.01.2018 from the Debts Recovery Tribunal-1 in Original Application No.122/2013. As per the said consent order, the Respondents contemnors agreed to pay sum of Rs.45,85,00,000/- together with interest to the Petitioners, as stated in paragraph 10 of the order dated 22.01.2018. As the Respondent failed and neglected to comply with the order dated 22.01.2018, the Petitioners have alternate efficacious remedy to execute the said order. Therefore, there is no question of taking any action under the Contempt of Courts Act, when an alternate efficacious remedy is available to them.

7 Hence, the Contempt Petition stands rejected. No order as to costs.

(N. J. JAMADAR, J.)

(K. K. TATED, J.)