

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 12.01.2018

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

CONT. PETITION NO. 1791 OF 2017

AADYA LOGISTICS
REP. BY ITS PROPRIETOR MADHURSAHA
NO.55 ASV COMPLEX CHENNAI-BANGALORE HIGHWAY
THANDALAM SRIPERUMBUDUR.

..PETITIONER

Vs

D.KANNAN
COMPANY SECRETARY STATE INDUSTRIES
PROMOTION CORPORATION OF TAMIL NADU LTD.
19/A RUKMANILAKSHMIPATHY ROAD POST BOX NO.
7223 EGMORE CHENNAI.

..RESPONDENT

Contempt Petition filed Under Section 11 of the
Contempt of Courts Act, 1971 praying to punish the
respondent for violating the undertaking given by the
respondent herein to refund the full amount of Rs.90,00,000
within a period of six weeks in OP.NO.213 of 2016 ON
23.09.2016.

The above Contempt Petition coming on this day before
this Court for hearing in the presence of Mr.Varun
Srinivasan, Advocate for the Petitioner; and of

Ms.Sudarsana Sundar appearing for the Respondent herein; and upon reading the petition and the affidavit of Mr.Madhur Saha, filed herein; the Court made the following order:

"Mr.Varun Srinivasan, learned counsel for the petitioner confirms receipt of cheque No.907045 dated 08.01.2018 for an amount of Rs.90,00,000/- from SIPCOT as per order of this Court dated 05.01.2018. Ms.Sudarsana Sundar, learned counsel appears for the contemnor.

2. Non-compliance with order dated 23.09.2016 in O.P.No.213 of 2016 passed by the Chief Justice is admitted and consequently, so is contempt. No apology has been tendered for the same. The order has been complied with only after filing of this petition and receipt of notice thereupon and appearance by the counsel for the contemnor before this Court on 14.12.2017. Evidently, one cannot subscribe to the view that compliance of the order in question at this stage, after filing of the contempt petition is tantamount to timely compliance with the order.

3. The Full Bench of this Court in *Vidya Charan Shukla V. Tamil Nadu Olympic Association* (AIR 1991 Madras 323) referring to the decision of the Calcutta High Court in *Bhagat Singh V. Dewan Jagbir Sawhney* (AIR 1941 Cal 670), approved by the Supreme Court in *Manchar Lal V. Seth Hiralal* (AIR 1962 SC 527) held that the power of this Court as a Court of Record will extend not only to the determination of contempt but also a determination whether, on the allegations before it a case is made out for civil contempt. In such circumstances, instead of taking any action for the committal for contempt, the Court is at liberty, and should make any such order, which would be in the administration of justice. It is also observed that the law cannot make an express provision against all inconveniences and in cases where the circumstances so warrant, acting upon the inherent power that it assumes the Court will extend such remedy that would do real and substantial justice in the facts and circumstances of a particular case.

4. In the light of the above, while refraining from punishing the contemnor for contempt of the order of the Chief Justice dated 23.09.2016, I am of the view that costs of this petition should be borne by the contemnor. The cost is quantified at a sum of Rs.50,000/- payable to the

petitioner within a period of two (2) weeks from the date of receipt of a copy of this order.

5. The Contempt Petition stands closed."

WITNESS THE HON'BLE MS.INDIRA BANERJEE, THE CHIEF JUSTICE OF HIGH COURT AT MADRAS, AS AFORESAID, THIS THE 12th DAY OF JANUARY 2018.

SD/-
JOINT REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER(O.S.)

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kr/CO/18/04/2017

one cc to M/s.N.V.S. & Associates, Advocate, sr.No.723

One CC to Mr.Sudharshana Sundar, Advocate , Sr.No.719.

RA/31/01/2018

CONTEMPT PETITION No.1791/2017

THE HON'BLE DR.JUSTICE

ANITA SUMANTH

ORDER

DATED :12/01/2018

FOR APPROVAL :31/01/2018

APPROVED ON :31/01/2018

To:

D.KANNAN
COMPANY SECRETARY STATE
INDUSTRIES
PROMOTION CORPORATION OF TAMIL
NADU LTD.
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