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

+ **CONT.CAS(C) 743/2018**

RAVINDER SINGH

..... Petitioner/Relator

Through: Mr. Jasmeet Singh & Mr. Srivats
Kaushal, Advs.

Versus

JASMOHAN SINGH & ANR. Respondents/Alleged Contemnors

Through: Mr. Ashwini Mata, Sr. Adv. with Mr.
Mahendra Rana, Mr. Sourabh Gupta,
Mr. Puneet Yadav, Mr. Karan Gaur &
Mr. Sankalp Brahma, Advs. for R-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **23.10.2018**

1. Contempt is averred, of the order dated 10th January, 2011 in CS(OS) No.1440/2008, against non-parties to the suit.
2. This contempt petition came up first before this Court on 1st October, 2018 when the counsel for the petitioner stated that he will communicate about the listing of this petition to the counsels for the respondents and would serve the copy to non-applicants and also to their counsels. On such request, the contempt was adjourned to today.
3. Today, the file has been received at about 1230 hours. However, the senior counsel for the respondent no.1 Jasmohan Singh appears. None appears for the respondent no.2 Sandeep Sharma, authorized representative of M/s BI Waverly Pvt. Ltd. The counsel for the petitioner states that advance copy of the application was sent by courier to the respondent no.2.

4. The counsel for the petitioner argues that (i) the petitioner has filed CS(OS) No.1440/2008 aforesaid for specific performance of an Agreement of Sale dated 23rd December, 2005 by the defendant therein viz. Chuckles Kohli of his 1/3rd undivided share in property No.15, Jor Bagh, New Delhi; (ii) vide ad-interim order dated 10th January, 2011 in CS(OS) No.1440/2008, the defendant no.1 therein viz. Chuckles Kohli was directed to maintain *status quo* with respect to the said 1/3rd undivided share in the property; (iii) the petitioner filed IA No.7425/2018 in CS(OS) No.1440/2008 to restrain letting out of the property but vide order dated 28th May, 2018, the said application was disposed of as misconceived owing to the continuing order dated 10th January, 2011 directing *status quo* to be maintained; (iv) the defendant no.1 Chuckles Kohli is also a defendant in CS(OS) No.238/1989 titled ***Pamela Manmohan Singh Vs. K.V. Kohli***; (v) the plaintiff in CS(OS) No.238/1989 filed IA No.7493/2018 seeking letting out of the entire property No.15, Jor Bagh, New Delhi and which application was also listed before this Court on 28th May, 2018 when the said Chuckles Kohli stated that he had no objection to the application being allowed; and, (v) in pursuance thereto the respondent no.1 Jasmohan Singh herein has executed a Lease Deed dated 30th May, 2018 in favour of M/s BI Waverly Pvt. Ltd. aforesaid.

5. It is argued that though the plaintiff has filed an application under Order XXXIX Rule 2A of the CPC against Chuckles Kohli in CS(OS) No.1440/2018 but since the respondents herein are not parties to CS(OS) No.1440/2008, this contempt petition has been filed against them. A copy of the order dated 1st August, 2016 in CS(OS) No.238/1989 aforesaid

connected with Test Cas No.19/1997 and Test Cas No.20/1997 is handed over in the Court to contend that a reading of para no.58 thereof shows that respondent no.1 Jasmohan Singh was aware of CS(OS) No.1440/2008. It is argued that once respondent no.1 Jasmohan Singh was aware of CS(OS) No.1440/2008, he is deemed to have been aware also of the order of *status quo* therein and has violated the said order.

6. I have enquired from the counsel for the petitioner as to how contempt can be alleged against a person not party to the proceeding, of order wherein contempt is alleged.

7. The counsel for the petitioner argues that for violation of order of the Court, while against a party to the proceeding, of order wherein contempt is alleged, Order XXXIX Rule 2A of the CPC is the remedy but against others, who though aware of the order of the Court but still violate the same, the provision of contempt can be invoked. Reliance is placed on para no.38 of ***Krishna Gupta Vs. Narendra Nath*** 2017 (244) DLT 224 in turn relying on ***Seaward Vs. Paterson*** 1897 1 Chancery 545, ***Hadkinson Vs. Hadkinson*** (1952) 2 All ER 567 and ***S.N. Banerjee Vs. Kuchwar Lime and Stone Co. Ltd.*** AIR 1938 PC 295 observing that in cases where it is established and proved that the person who has violated the order of injunction was aware of passing of the said order, then proceeding can certainly be initiated against such a person for wilful breach of the injunction order.

8. I am unable to agree.

9. CS(OS) No.1440/2008, of order dated 10th January, 2011 wherein contempt is alleged, is a suit *in personam* and not a suit *in rem*. The interim order of *status quo* therein will not bind the world at large but will bind only

the parties thereto. Merely because some other person deals with the property and changes the *status quo* cannot be termed as contempt by such person or interference by such person with the administration of justice. If the petitioner has any right to have the lease deed executed annulled, the petitioner has to take appropriate remedies therefor and cannot use the jurisdiction of contempt of Court for annulment of the lease deed, as is being sought to be done. As far as reliance on *Krishna Gupta* supra is concerned, the same presumes that the order of which contempt is alleged binds those who are imputed with awareness thereof. It is only then the question of their violating the order of injunction will arise. Once it is found that the respondents in the present case are not bound by the order of which contempt is alleged, their awareness thereof is irrelevant and their actions changing the *status quo* cannot be contemptuous of the order dated 10th January, 2011.

10. No case for invoking the contempt jurisdiction is made out.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 23, 2018

‘gsr’..