

**IN THE HIGH COURT OF BOMBAY AT GOA*****COMPANY APPLICATION NO. 20 OF 2017******IN******CONTEMPT PETITION NO. 32 OF 2016***

ABHISHEK UDAY NAIK.

... Applicant

Versus

WESTERN INDIA SHIPYARD LTD., THR.

ITS CDR S. K. MUTREJA (RET).

... Respondent

Mr. Joseph Vaz, Advocate for the Applicant.

***Coram:- S. C. GUPTE, J.******Date:- 21st June 2019******P.C.***

The Contempt Petition alleged breach or disobedience of an order passed by this Court recording an undertaking of the Respondents Contemnors to pay the amount in the manner stated in the order. The Contempt Petition was disposed of on the basis of the statement made by learned counsel for the Respondents that the instalments have since been duly cleared. This application is on the footing that the statement was incorrect and that there is still money owed by the Respondents to the Petitioner and that the order of disposal should accordingly be recalled and the Contempt Petition restored to file. This Contempt Application was called out from time to

time when the Respondents were represented. Assurances were made and undertakings furnished on the part of the Respondents to clear the amount in a certain manner. In the meantime, Contemnor Nos.1 and 4 were discharged, since they were merely employees of the present Respondent and had no role in non payment of the amount undertaken to be paid by the Respondents. The last order of the Court is dated 23.11.2017, when the Contempt Application was adjourned at the joint request of the parties. Today, none appears for the Respondents. It is clear from the narration above that the order of disposal was obtained by making a misrepresentation before the Court concerning the dues owed by the Respondents to the Petitioner. Accordingly, the Contempt Application is allowed and the order of disposal dated 23.02.2017 is recalled and set aside and the Contempt Petition is restored to file. Since a contempt notice has already been issued, the petition will be taken up for final hearing. Registry to however, issue personal notices to the Respondents Contemnors through Shri S. Muthuswamy, Chief Financial Officer of Western India Shipyard Limited C/o ABG Shipyard Limited, Bhupati Chambers, 13 Mathew Road, Mumbai 400 201 and Shri Ganesh M. Naik, Manager ( Legal) of Western India Shipyard Limited, having registered office at P.O.Box 21, Mormugao Harbour Goa 403 803. The returnable date is 19th July, 2019.

***S. C. GUPTE, J.***

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