

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CONTEMPT PETITION NO. 11 OF 2016
IN
ARBITRATION PETITION NO. 325 OF 2013**

Shivang Realty LLP
vs

...Petitioner

D'Divine Sheltors Pvt.Ltd. & Ors.

...Respondents

Mr.Sharan Jagtiani with Nita Solanki I/b. Kunal Bhanage for Petitioner.

Mr.C.J. Doveson I/b. Poonam Utekar for Respondent Nos.1 to 3.

Mr.Jas Sanghavi with Divyasha Mathur I/b. PDS Legal for Respondent No.4.

CORAM : S.C.GUPTE, J.

DATE : 20 MARCH 2019

P.C. :

This contempt petition alleges breach or disobedience of a consent order passed by this court in an arbitration petition filed under Section 9 of the Arbitration and Conciliation Act, 1996. By the consent order, this court recorded an undertaking of Respondent Nos.1 and 2 herein to pay a sum of Rs.1 crore to the Petitioner. Since the Respondents failed to pay the amount as undertaken before this court, the Petitioner has filed the present petition. The Petitioner also simultaneously pursued its remedy before the company court in a winding up petition filed by the Petitioner, on which the first Respondent company was ordered to be wound up.

2 At this stage, when the contempt petition is taken up for final hearing, Respondent No.2 offers to discharge the Petitioner's debts in the sum of Rs.1.50 crores in accordance with the consent order. Learned

Counsel for the Petitioner agrees to accept such payment in full and final settlement of the Petitioner's claims against the Respondents if the Respondents keep to the time-line assured to this court.

3 Learned Counsel for Respondent Nos.2 and 3 undertakes to this court that the payment will be made by Respondent No.2 and/or 3 in the following manner. A sum of Rs.1 crore shall be paid in five equal monthly instalments over a period of next five months and further payment of Rs.50 lakhs will be made by five equal monthly instalments over a period of five months thereafter, thus clearing the entire amount within a period of ten months. The first of the instalments, as recorded above, shall be made on or before 30 April 2019, to be followed by subsequent instalments each falling due on or before 30th day of each successive month. It is also made clear and recorded in terms that this undertaking is given by Respondent Nos.2 and 3 after taking into account their current financial circumstances and after satisfying themselves about their capacity to make this payment. Subject to the Respondents keeping to this time schedule, the Petitioner accepts such payment not only in discharge of the liability of Respondents Nos.2 and 3 who are making the payment but also the liability of Respondent No.1 in accordance with the consent order. Learned Counsel agrees that after receipt of this amount, the Petitioner shall co-operate with the Respondents' Advocate in having the winding up order permanently stayed or vacated. The statements and undertakings made by the respective parties are accepted and the petition is disposed of.

(S.C. GUPTE, J.)