

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****CONTEMPT PETITION NO.52 OF 2014**

HSBC PI Holding (Mauritius) Ltd.

...Petitioner

VS

Avitel Post Studioz Ltd. And 3 Ors.

...Respondents

.....

Mr. Nikhil Sakhardande, a/w. Mr. Rohan Rajadhyaksha, Ms. Priyanka Shetty and Mr. Pranay Chitale, i/b. AZB & Partners, for the Petitioner.

Mr. Simil Purohit, a/w. Mr. H.K. Sudhakara, i/b. Prompt Legal, for Respondent Nos. 1 to 4.

.....

CORAM : S.C. GUPTE, J.**DATED: 6 FEBRUARY 2019****P.C.:**

. Heard learned Counsel for the parties. The contempt petition alleges breach of a deposit order passed by this Court in the present arbitration petition filed under Section 9 of the Arbitration and Conciliation Act, 1996. The original order passed by learned Single Judge of this Court was to deposit such amount in the designated account of the Respondents-Contemnors so as to maintain a balance of USD 60 million in the account. The order was varied in appeal. The appellate order required the Respondents-Contemnors to maintain a credit balance of USD 30 million in the designated account. The appellate order has been challenged by both parties in their respective special leave petitions. The SLPs have been admitted and converted into civil appeals. The civil appeals are pending before the Supreme Court.

There is a status-quo order passed by the Supreme Court and which is operating as of date in respect of both the appellate as well as the original order passed in the arbitration petition. The contempt petition alleges breach or disobedience of the original order passed by the learned Single Judge on this arbitration petition. Considering these circumstances, it may not be proper at this stage to issue any contempt notice. So also the contempt petition cannot be kept pending simply because of pendency of the civil appeals before the Supreme Court. Instead it may be more appropriate to dispose of the petition as of now, since there is no order of which compliance is required as of today and instead reserve unto the Petitioner liberty to file appropriate proceedings including proceedings for contempt of Court, if so advised at a later date after the Supreme Court disposes of the civil appeals. This order is passed simply on the basis that there is no order operating as of date, except the status-quo order of the Supreme Court. It is clarified that whilst passing these orders, this Court has not considered the merits of the controversy.

(S.C. GUPTE, J.)