

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO.1 OF 2019**

IN

COMPANY PETITION NO.1108 OF 2015

Padmaja Infra

..Petitioner

Vs.

Hindustan Construction Co. Ltd.

..Respondent

Mr. Maulik K. Tanna for Petitioner

Mr. T.Suresh partner of Petitioner present

Mr. A. S. Daver a/w Ms Meenakshi Iyer I/b Advaya Legal for Respondent

Mr. Ajay Singh, Company Secretary and Mr. Keshava Suvarna, Authorized Signatory of Respondent present

CORAM : K.R.SHRIRAM, J.

DATE : 21st JUNE 2019

P.C.:

1 Mr. Tanna appearing for petitioner states that due to breach of undertaking of respondent, petitioner was exposed to losing a substantial amount.

Mr. Tanna states that after petition was admitted, respondent came forth to settle petitioner's claim and the parties agreed to settle with respondent paying a sum of Rs.1.35 crores towards the undertaking that was given by respondent in the consent terms.

2 Mr. Daver appearing for respondent and all its directors tenders an affidavit of one Mr Ajay Singh, Company Secretary to respondent, affirmed on 21st June 2019, unconditionally apologizing to the court for the breach of undertaking for which, the court was pleased to issue notice as to why respondent and its directors should not be held guilty of contempt of court. Mr. Daver, on instructions, also offered to pay such amount as donation as the court will direct to any organization as charity.

3 Parties have also tendered minutes of order dated 21st June 2019 signed by petitioner and authorised representative of respondent and their

respective advocates.(Mr. Tanna states that petition was yet to be amended despite liberty granted as parties settled the matter in the meanwhile).The same is taken on record and marked "X" for identification. For ease of reference, the minutes of order is scanned and reproduced hereinbelow :

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO. 1 OF 2019
IN
COMPANY PETITION NO. 1108 OF 2015

PADMAJA INFRA ... PETITIONER
Versus
HINDUSTAN CONSTRUCTION CO. LTD ... RESPONDENTS

Coram: Mr. JUSTICE SHRI K.R. SHRIRAM
Dated: 21ST DAY OF JUNE, 2019

BRIEF MINUTES OF THE ORDER

1. The Petitioner and the Respondent had in the aforesaid Company Petition No. 1108 of 2015 entered into Consent Terms dated 23.01.2018 (Said "Consent Terms") whereupon a Consent Order was passed by this Hon'ble Court on 23.01.2018 by which the aforesaid Company Petition was disposed of.
2. As more particularly recorded in Clause 3 of the said Consent Terms the Respondent abovenamed undertook to provide transport challans to the Petitioner in respect of the entire manufactured aggregate stock quantity of 40,000 MT on or before February 25, 2018 in order to enable movement / transportation by the Petitioner of the said stock sold to the Petitioner and recorded in the Memorandum of Agreement dated February 13, 2014. At the time of executing the Consent terms and giving the undertaking to this Hon'ble Court, the Respondent was bonafidely under the belief that 40000

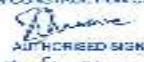
MT of material was lying at the site and therefore in good faith agreed to give that undertaking.

3. However, inter alia, due to the non-compliance of the said clause 3 of the said Consent Terms by Respondent, the Petitioner incurred losses and the Petitioner was constrained to file the present Contempt Petition No. 1 of 2019.
4. Vide an order passed on 6th June, 2019, the Contempt Petition was admitted in view of the breach of the undertaking, the Petitioner was required to amend the cause title of the said Petition and the Registry was directed to issue show cause notice to all directors of the Respondent.
5. Subsequently, the Petitioner and Respondent abovenamed have arrived at an amicable settlement on the following terms:
 - a. In order to compensate the loss incurred by the Petitioner due to the aforesaid non-compliance on the part of the Respondent and to cure the breach of the undertaking given to this Hon'ble Court on 23rd January, 2018 and to purge the prima facie observations on commission of breach of the undertaking by this Hon'ble Court, the Respondent undertakes to pay and the Petitioner agrees to accept a sum of INR 1,35,00,000/- (One Crore Thirty Five Lakhs only) in full and final settlement of its claims under the said Consent Terms ("**Settlement Amount**").
 - b. The Respondent has handed over to the Petitioner a Demand Draft bearing No. 327215, dated 18.08.2019 drawn on ICICI Bank, Backbay Reclamation Branch for a sum of Rs. 1,35,00,000/- (Rupees One Crore Thirty Five Lakhs only), the receipt of which the Petitioner admits and acknowledges.



- c. The Respondent, through Mr. Ajay Singh, the Company Secretary has also tendered an unconditional apology to this Honble Court, which is accepted.
 - d. In view of the payment received, all disputes between the parties, earlier correspondence, writings or agreements if any, all claims, dues, costs, damages against each other which are subject matter of this Petition and the Company Petition No. 1108 of 2015 stand withdrawn and revoked. The Petitioner is not desirous of prosecuting the Contempt Petition.
 - e. The Petitioner agrees and undertakes that it shall not make any further claim or initiate any proceedings against the Respondent with respect to the claim and disputes mentioned by it in the Contempt Petition and the Company Petition.
6. In view of the aforesaid settlement and the Respondent having come forward to cure the breach of the undertaking given to this Honble Court on 23rd January, 2018 and in view of the unconditional apology given to this Honble Court, the Contempt Petition is disposed of.


 For the Petitioner
 Mr. T. Suresh Kumar
 Advocate for the Petitioner

FOR HINDUSTAN CONSTRUCTION CO. LTD.

 AUTHORIZED SIGNATORY
 Kishan Kumar
 For the Respondent

 Advocate for the Respondent

4 Mr. Tanna and Mr. Daver state that signatories of petitioner and respondent are present in court and identify them.

5 Mr. Tanna confirmed having received the pay order as mentioned in the minutes of order in paragraph 5(b) and also referred to in paragraph 3 of the affidavit of Mr. Ajay Singh.

6 Order in terms of minutes of order. Unconditional apology of

respondent is accepted.

7 Respondent to give a sum of Rs.5 lacs as donation to National Defence Fund (NDF), State Bank of India, Institutional Division, Parliament Street, New Delhi, Account No.11084239799-www.pmindia.nic.in, and file compliance affidavit within two weeks from today. If compliance affidavit is not filed, registry to place this petition for directions.

8 Petition accordingly stands disposed.

(K.R. SHRIRAM, J.)