

**COCN No.2411 of 2017 (O&M)
Date of decision: 02.05.2019.**

M/S S.B. ASSOCIATES

..... Petitioner.

Vs.

ARUNDHATI BHATTACHARYA AND ANR.

..... Respondents.

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR.

Present: Petitioner in person with
 Ms. Amrita Nagpal, Advocate.
 Mr. Atul Nanda, Sr. Advocate with
 Mr. Vikas Chatrath, Advocate
 for respondent No.2.

NIRMALJIT KAUR, J. (ORAL).

The contempt petition is filed for non-compliance of the order dated 05.08.2016 stating therein that the respondent-bank owed him Rs.6,46,31,494 as on date which has not been paid by them. The calculation on the basis of which the said amount is said to be payable is placed on record alongwith their CM No.964 of 2018.

Learned counsel for the respondents has filed their reply by way of affidavit vide CM No.988 of 2018 stating therein that the order has been complied with. The calculation-sheets in respect of the payment submitted by the respondents is placed on record as Annexures R-5 and R-6. As per the calculation of the respondents-bank, the amount due to the petitioner as per the judgment and order dated 05.08.2016 amounted to Rs.1,03,51,987/-. Thus, if at all, the question is only with respect to the discrepancy in the amount as claimed by the petitioner in the present contempt petition and as prayed by the respondents. Since the gap between the two amounts was huge, this Court thought it proper to call the respondents and hear them out.

The parties have been heard.

As per the order dated 05.08.2016, the respondent bank was required to pay an amount of Rs.81,000/- per month commencing from 01.06.2016 to 31.05.2017 which was the last date to vacate the premises. The first installment was required to be paid alongwith the arrears before 16.08.2016.

It is not disputed that the respondent bank has paid the amount from 01.06.2016 to 31.05.2017 @ of Rs.80,000/- per month. The only question therefore survives is whether the arrears have been paid or not. In the said order dated 05.08.2016, it is not clear as to the period for which the said arrears are requires to be paid. However, both sides agreed that the same are to be paid from the year 1989 onwards in terms of the order passed by the Division Bench on 29.05.2015 in CMA No.7 of 2015 in CAPP-11 of 2000.

Hence, to ascertain as to how much arrears are to be paid, this Court required to peruse the order dated 29.05.2015. In Para-5 of the said judgment, the arrears required to be paid are as under:-

“From 01.01.1989 (sic)31.12.1993	Rs.16000/- per month
From 01.01.1994 to 31.12.1998	Rs.20000/- per month
From 01.01.1999 to 31.12.2003	Rs.25000/- per month
From 01.01.2004 to 31.12.2008	Rs. 31250/- per month
From 01.01.2009 to 31.12.2013	Rs. 39063/- per month
From 01.01.2014 to 31.12.2018	Rs. 48828/- per month”

The respondents bank has specifically stated in the reply dated 30.10.2017 that after deducting TDS on the aforesaid amount, the total amount of Rs.74,94,980/- was deposited in the form of FDRs on 31.07.2016 in terms of the order dated 29.05.2015. Therefore, it is apparent that the order has been complied with.

Hence, the argument of the learned counsel for the petitioner

and the petitioner who is present in the Court, who also has been argued in person that the said amount was required to be paid with interest @ 12% per annum in terms of the order dated 29.05.2015 cannot be sustained, in view of the directions and observations of the Court in its order dated 29.05.2015 wherein the interest @ 12% per annum was to be paid only in case the amount as per the table reproduced above was not deposited by 31.07.2015. The said amount having been kept in the fixed deposits by way of FDRs within the stipulated period, the respondent bank was not liable for any interest in terms of order dated 29.05.2015.

The second argument that the FDRs made in the year 2017 and not by 31.07.2015 is not borne out from the original FDRs as shown to this Court. The copy of FDR has also been placed on record which shows the date of the FDRs and the amount of Rs. 74,94,980/- as 31.07.2015 with maturity date as 31.07.2018. Copy of this FDR alongwith the other FDRs has also been handed over today in the Court to learned counsel for the petitioner. This Court has also seen the original of the same and the copies of the same are placed on the Court file as well.

In these circumstances, this Court does not find any willful contempt is made out. The contempt petition is accordingly dismissed.

Rule issued against the respondent(s) is discharged.

At this stage, this Court restrain itself from imposing cost on the petitioner for filing a frivolous contempt petition which has resulted in the wastage of the time of Court.

Since the main petition has been dismissed, pending applications are also stand disposed of.

02.05.2019

Ali

(NIRMALJIT KAUR)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No