

OD-2

CC/99/1997
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CONTEMPT)
ORIGINAL SIDE

MOHANLAL DUNGARMAL FUTNANI
Versus
VISHANJI DUNGARMAL FUTNANI & ORS.

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 22nd September, 2021

(Via Video Conference)

Appearance:
Mr. Ranjan Bachawat Sr. Adv.
Mr. Sanjay Ginodia, Adv.
Mr. Prabhakar Chowdhury, Adv.
Ms. Pubali Sinha Chowdhury, Adv.
Ms. Mini Agarwal, Adv.

The Court : The alleged contemnor No.2 is represented. The petitioner has remained unrepresented on all previous dates when the matter was called on save on 5th August, 2021 and 1st September, 2021. On 1st September, 2021, an advocate appeared and submitted that he has the instruction to appear on behalf of the petitioner. Although he was granted liberty to file his vokatatnama but no steps have been taken by the said advocate. The petitioner remains unrepresented even today. The contempt application arises out of an order dated 8th April, 1993. The alleged contemnor no.1 has died during the pendency of the contempt proceedings. The alleged contemnor no.3 has been discharged. The contempt petition is, therefore, effectively against the alleged contemnor no.2. This order dated

8th April, 1993 was appealed against. The said appeal is Appeal No.293 of 1993. The appeal was disposed of by an order dated 13th October, 1993. The order dated 13th October, 1993 was challenged before the Hon'ble Supreme Court of India. By an order dated 18th November, 1993, the Hon'ble Supreme Court had set aside the order of the Division Bench of this Court dated 13th October, 1993 and had remanded back the appeal for fresh disposal on merits. Subsequent thereto directions were again given in the appeal by an order dated 20th February, 1996.

I am told that the appeal has been disposed of and the order passed in the said appeal has been challenged before the Hon'ble Supreme Court. The proceedings before the Hon'ble Supreme Court is pending. The order in contempt having been carried in appeal, then there will be no separate existence of the order in contempt. The order in contempt has merged with the order that has been passed in the appeal. Moreover, the final order will be that of the Hon'ble Supreme Court in the proceedings pending before it.

In view of the ratio laid down in the judgement reported in (2012) 4 Calcutta Law Times 711 (M/s. Tetulia Coke Plant (P) Ltd. & Ors. Versus P.S. Bhattacharya), the contempt petition cannot be maintained any further before the Hon'ble Single Bench.

The contempt petition is, therefore, disposed of without any further orders.

Rule, if any, stands discharged.

(ARINDAM MUKHERJEE, J.)