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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

CIVIL CONTEMPT PETITION NO. 415 OF 2017

M/s Rainbow Iron and Steel ...Petitioner
Versus
M/s. Chevron Metal Products Pvt Ltd. and Ors. ...Respondents

***WITH
CRIMINAL APPLICATION NO.364 OF 2018
(NOT ON BOARD)
IN
CRIMINAL APPEAL NO.429 OF 2017***

Chevron Metal Products Pvt Ltd. and Ors. ...Applicants
Versus
M/s Rainbow Iron and Steel and Anr. ...Respondents

Mr. Huzefa Nasikwala with Mr. Sujit Mashal i/b Nasikwala Law Office,
for the Petitioner in Civil Contempt Petition No.415 of 2017 and for the
Respondent No.1 in Criminal Application No.364 of 2018.

Mr. Rajesh Datar with Mr. Rahul D. Oak and Mr. Siddhesh S. Shetye, for
the Respondent Nos.1 to 3 in Civil Contempt Petition No.415 of 2017 and
for the Applicants in Criminal Application No.364 of 2018.

Mr. S. V. Gavand, A.P.P for the Respondent – State.

Ms. Mehrunissa Alibhai Huseni, Respondent No. 2 is present in Court.

Ms. Ammaar Huseini, Respondent No.3, is present in Court.

CORAM : REVATI MOHITE DERE, J.

DATE : 1st MARCH, 2021

P.C. :

1. Heard learned counsel for the parties.

2. Respondent Nos.1 to 3 do not dispute their liability of Rs.1,19,00,000/-. Accordingly, respondent No.2 has filed an affidavit of respondent No.2 agreeing to make payment to the petitioner on certain revised terms and conditions. The said affidavit is dated 19th August 2016. By the said affidavit, respondent No.2 has undertaken to pay a sum of Rs.1,19,00,000/- in tranches to the petitioner as stated in para 3 of the said affidavit i.e. between the period November 2016 to January 2018.

3. It is pertinent to note that the respondent No.2 earlier in the aforesaid appeal had filed an affidavit dated 19th August 2016, setting out how payments would be made in tranches, as the respondent Nos.1 to 3 had admitted their liability of Rs.1,19,00,000/-. It appears that except the first installment of Rs.5,00,000/- for November 2016, the respondents had not adhered to their commitment as stated in the affidavit dated 19th August 2016.

4. As there was non-compliance of the said affidavit/undertaking dated 19th August 2016, the petitioner filed the aforesaid Contempt Petition. Pursuant to the notice issued to the respondent Nos.2 and 3 in the aforesaid Contempt Petition, the respondent Nos.2 and 3 appeared before this Court

in the said Contempt Petition. Learned Counsel for the respondent Nos.1 to 3, on the last date stated that the respondents were ready to give a fresh affidavit-cum-undertaking setting out the schedule, how payments would be made. Pursuant thereto, learned counsel for the respondent Nos. 1 to 3 have tendered an affidavit-cum-undertaking of the respondent No.2 dated 1st March 2021. The said affidavit-cum-undertaking is taken on record and marked 'X' for identification. In the said affidavit-cum-undertaking, a detailed chart is given in para 2 stating how the payments will be made i.e. from 15th March 2021 to 15th June 2023. The respondent No.2 has undertaken to repay an amount of Rs.1,14,00,000/- to the petitioner as per the schedule mentioned in para 2 of the said affidavit-cum-undertaking. The respondent No.2 has also handed over 28 post-dated cheques for the amounts mentioned in para 2 of the said affidavit-cum-undertaking. The said amount is by way of full and final settlement. Learned Counsel for the petitioner accepts having received 28 post-dated cheques from the learned counsel for the respondent Nos.1 to 3.

5. The respondent No.2 as well as respondent No.3 are personally present in Court. They undertake to comply with the aforesaid affidavit-cum-undertaking.

6. In view of the affidavit-cum-undertaking dated 1st March 2021, the petitioner does not wish to pursue the aforesaid Contempt Petition. Contempt Petition is accordingly disposed of on the aforesaid terms.

7. In view of the affidavit-cum-undertaking dated 1st March 2021 of the respondent No.2, nothing survives for consideration in Criminal Application No.364 of 2018, which was filed by the aforesaid respondents for relieving them from the statements made in the affidavit dated 19th August 2016. The same is also disposed of accordingly.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.