



Cont.P.No.1592 & 1593 of 2016

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.10.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

**Cont.P.No.1592 & 1593 of 2016,
Sub A.Nos.262 & 263 of 2016 and 165 of 2021**

PVP Capital Limited
Rep. By its authorized signatory
V.R.Arasu
KRM Centre, 9th Floor,
Chetpet, Chennai 600 031

.. Petitioner in both petitions

Vs.

1. Thirrupathi Brothers Film Media Pvt. Ltd.
Rep. By its Managing Director
Nammalvar Lingusamy

2. Nammalvar Lingusamy

3. Nammalvar Subash Chandra Bose .. Respondents in both petitions

Prayer in Cont.P.No.1592 of 2016:

Contempt Petition filed under Section 11 of the Contempt of Court Act praying to punish the respondents for willful disobedience of the Order this Court dated 12.01.2016 in O.A.No.981 of 2015.

Prayer in Cont.P.No.1593 of 2016:

Contempt Petition filed under Section 11 of the Contempt of Court Act praying to punish the respondents for willful disobedience of the Order this Court dated 12.01.2016 in O.A.No.980 of 2015.



WEB COPY

Cont.P.No.1592 & 1593 of 2016

For Petitioner : Mr.S.Prasad for
M/s.Sarvabhauman Associates

For Respondents 1 to 3 : Mr.A.R.L.Sundarasesan,
Senior counsel for Mr.D.Prabhu
Mukund Arunkumar

For M/s.MeenaBai & Co., : Mr.A.Chidambaram
Chennai (3rd Party Creditor)

For M/s.Baba films, : Mr.A.R.L.Sundaresan
Coimbatore (3rd Party Creditor) Sr. Counsel for
Mrs.A.L.Gandhimathi

COMMON ORDER

Parties in both petitions are one and the same and the issue involved in both petitions is also common in nature, hence, heard together and disposed of by a common order.

2. The contempt petitions are filed mainly on the ground that an undertaking given before this Court is violated by the contemnors. The contemnors are present. A joint affidavit of undertaking was filed before this Court by the contemnors when injunction is sought as against the release of movie "Rajini Murugan" directed by the contemnor on the basis of money dispute between the petitioner and the respondents. An affidavit filed before this court indicates that the contemnor undertaken to pay the outstanding



loan amount of Rs.1,70,00,000/- (Rupees one Crore seventy lakhs only) to the petitioner on or before 29.2.2016 or 10 days before the release of movie *"Idam Porul Yeval"*. However, the agreed amount is not paid. It is undisputed that the movie *"Idam Porul Yeval"* was offered as security as against the release of another movie, *"Rajini Murugan"*. The movie *"Idam Porul Yeval"* is still not released.

3. Now, the instant contempt petitions are filed to punish the contemnors on the ground of non compliance of undertaking given before this Court. It is to be noted that Section 9 application is filed as an interim measure to preserve or secure the rights of the applicant. It is also well settled that any order passed under Sec.9 of the Act, within 90 days of the said order, the matter has to be referred to arbitration. However, no dispute whatsoever referred to arbitration so far. Though order was passed by this Court on 21.4.2016, the same clearly exhibits no manifest intention on the part of the petitioner is to refer the matter to arbitration. Be that as it may. Though undertaking has been given before this Court to pay the outstanding amount, the contemnor also offered other movie directed by them as security and still that movie is not released. Though it appears that the undertaking as given before this court is violated, the Court has to see the circumstances under which such undertaking has been given before this Court. When the



application has been filed in last minute as against the release of a movie, an undertaking has been given by the contemnor to pay the outstanding amount.

It is not even crystalised and the dispute is not even referred to arbitration. Therefore, mere undertaking to pay the outstanding amount which is related to non payment of loan amount and the respondents due to various circumstances facing adversity, this Court is of the view that such circumstances cannot be construed as deliberate intention of the respondents to commit contempt of Court.

4. When a person though given an undertaking due to various circumstances become contemnor and facing adversity, mere undertaking cannot be construed as deliberate act on the part of the petitioner to violate the orders of the Court. Therefore, considering the nature of undertaking and the circumstances under which the undertaking has been given by the respondents to pay the amount on or before 29.6.2016 or before the release of movie '*Idam Porul Yeval*' 'whichever is earlier and considering the fact that the petitioner has not taken steps to refer the dispute to arbitration, this Court do not find any deliberate intention on the part of the respondents to violate the orders of this Court, more particularly undertaking given by them.



Cont.P.No.1592 & 1593 of 2016

5 Accordingly, both the contempt petitions are closed. It is well open to the petitioner to work out remedy as per law. Consequently, connected applications are also closed. No costs.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

vaan

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
from 25th day of September 2008 the Registry is issuing Certified copies of
the Orders/Judgments/Decrees in this format.

GS/28/01/2022