



WEB COPY

Cont.P.Nos.1948 and 2901 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Cont.P.Nos.1948 and 2901 of 2016

M/s. Galada Finance Limited,'
Represented by its Manager G. Ramesh
Having registered office at
"Shanti Sadan", Old No.4, New No.7,
Shaffee Mohammed Road,
Thousand Lights,
Chennai - 600 006.

... Petitioner in Cont.P.Nos.1948
and 2901 of 2016

Vs

Mr. S. Govindan,
Commercial Tax Officer,
Representing
The Assistant Commissioner Enforcement -I,
Office of the Assistant Commissioner (CT),
No.1, P.A.P.J M. Building,
Greams Road,
Chennai - 600 006.

... Respondent in
Cont.P.No.1948 of 2016

Mr. P. Balasubramanian,
Commercial Tax Officer,
Representing
The Assistant Commissioner Enforcement -I,
Office of the Assistant Commissioner (CT),
No.1, P.A.P.J M. Building,
Greams Road,
Chennai - 600 006.

... Respondent in
Cont.P.No.2901 of 2016



Cont.P.Nos.1948 and 2901 of 2016

Prayer in Cont.P.Nos.1948 and 2901 of 2016: petitions filed under Section

11 of Contempt of Courts Act to punish the respondent for having committed contempt by disobeying the orders of this Hon'ble Court dated 21.03.2016 and 15.04.2015 respectively made in A.No.8212 of 2015 in A.No.879 of 2015.

For Petitioner : M/s.Vijayalakshmi K.Rajaratnam

For Respondent : Mr. S.R. Rajagopal, AAG
assisted by
Mr. R. Swarnavel, GA
(in both Cont.P)

ORDER

The above petitions have been filed to punish the respondents for having disobeyed the orders of this Court dated 21.03.2016 and 15.04.2015 made in A.No.8212 of 2015 and A.No.879 of 2015.

2. The petitioner had filed A.No.879 of 2015 under Section 9 of the Arbitration and Conciliation Act for a direction to the respondents 1 to 3 to furnish security, failing which, to attach the salary of the third respondent and with a direction be issued to the fourth respondent garnishee to deposit a sum of Rs.24,00,000/- into this Court.

3. The case of the petitioner is that the first respondent had approached them for financial assistance for purchasing a car and



respondents 2 and 3 had stood as guarantors for the said loan. The parties had entered into a Hire Purchase Agreement dated 13.12.2010. Thereafter, the first respondent was irregular in the repayment of the instalments. A sum of Rs.15,26,250/- was due as on 14.02.2011. The petitioner had issued a notice on the said date informing the respondent that if amounts were not paid, the vehicle would be repossessed. Thereafter, a sum of Rs.7,49,700/- was paid by the first respondent on various dates. Once again, since the respondents had defaulted, the petitioner had invoked the arbitration clause by appointing an arbitrator and also moved A.No.879 of 2015 before this Court. By order dated 15.04.2015, this Court had allowed the said application and directed the respondents to furnish security. Since they had failed to furnish security, by order dated 15.04.2015, the fourth respondent was directed to attach the salary of the third respondent to the extent permissible under Section 60 of the Code of Civil Procedure. Since the fourth respondent had not complied with the said order, the petitioner had filed A.No.8212 of 2015 for a direction to the fourth respondent to implement the order dated 15.04.2015 and directed him to deposit the salary as and when attached, before this Court. This Court by order dated 21.03.2016 was pleased to direct the fourth respondent to attach a sum of Rs.12,736/- from out of the salary of the third respondent and deposit the



same to the credit of OP.No.978 of 2015, which is pending before this Court.

4. OP.No. 978 of 2015 was filed by the claimants challenging the Award passed by the learned Arbitrator dismissing their claim. Since the order dated 21.03.2016 was not complied with, Cont.P.No.1948 of 2016 also came to be filed. Since both the Contempt Petitions arise out of the very same subject matter, they have been taken up together. Pursuant to the statutory notice issued by this court, the contemnors are present before this Court.

5. A counter along with typed set of papers was filed, in which, the contemnors would submit that on receipt of the order dated 15.04.2015, a letter was addressed by the then Commercial Tax Officer requesting the Assistant Registrar to provide them with the details of the Heads of Account to which deduction to be made, since the salary was being deposited through ECS to the account of the 3rd respondent. While the response was awaited, the petitioners have filed A.No.8212 of 2015 and the third respondent had filed A.No.5136 of 2015 to raise the order of attachment dated 15.04.2015 passed in A.No.879 of 2015. The contemnors would further submit that the order dated 21.03.2016, was passed on the basis of the counter submitted by the Commercial Tax Officer stating that only a sum of Rs.12,736/- per



month could be deducted from the third respondent's account. Thereafter, immediately on receipt of the copies of the order, two payments were made by Demand Draft and thereafter amounts have been remitted till date. The petitioner submitted that meanwhile a petition was filed by the petitioner for setting aside the Award, which had also been dismissed by order of this Court dated 10.12.2019 in OP.No.978 of 2015.

6. The respondents contemnors had also stated that they have not violated any orders passed by this Court. On the contrary, they have complied with the orders immediately though initially they were not able to comply with the orders of this Court since they have received no response from the Assistant Registrar. Meanwhile applications were also filed and the same were pending.

7. Heard the counsel and perused the papers.

8. The records would reveal that on receiving the first order dated 15.04.2015, the respondents contemnors have addressed a letter to the Assistant Registrar asking for clarification regarding the heads of account to which the amounts had to be deposited. Thereafter, the applications had been moved by the third respondent for raising the attachment and the petitioner had moved an application for a direction to the respondents contemnors to comply with the orders passed in A.No.879 of 2015 dated



Cont.P.Nos.1948 and 2901 of 2016

15.04.2015. These applications came to be disposed of by orders dated

21.03.2016. The records would further reveal that on receipt of the copy of the order, two Demand Drafts have been deposited to the credit of OP.No.978 of 2015 on 15.07.2016 and 10.08.2016. Thereafter, amounts are being paid directly through ECS. Therefore, there does not appear to be any contumacious conduct on the part of the contemnors. That apart, the petition filed by the petitioners for setting aside the Award has also been dismissed and as on date the claim of the petitioner has been rejected.

9. In these circumstances, the petitioner has not made out any ground for punishing the respondents for contempt. The Contempt Petitions stand dismissed.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

mrn

//Certified to be true copy//

Dated at Madras this the day of 2021.

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/30/07/2021

To
The Assistant Commissioner Enforcement -I,
Office of the Assistant Commissioner (CT),
No.1, P.A.P.J M. Building,
Greens Road, Chennai - 600 006.