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Cont. P. No. 765 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2021

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

Cont. P. No. 765 of 2019

M/s.Electronics Finance Limited,
Represented by its Authorized
Representative Mr.Anand Anbazhagan,
Senior Chief Manager,
No.1167 TVS Colony,
Anna Nagar West Extension,
Chennai - 600 101.

... Petitioner

-VS-

1. Satnaam Industries,
Represented by Proprietor,
Ishwant Singh,
No.2/342, Selva, Laxmi Nagar,
Mougulivakkam, Porur,
Chennai - 600 116.
Tamil Nadu.
2. Ishwant Singh,
No. 118B, Suresh Nagar, Krishna Street,
Porur, Chennai - 600 116.
3. Preeti Ajith Singh,
No.118B, Suresh Nagar, Krishna Street,
Porur, Chennai - 600 116.

... Respondents

PRAYER:- Contempt Petition filed under Section 11 of Contempt of Courts Act, 1971 to punish the respondents for his willful and disobedience to the order made in A. No.1920 of 2019 dated 08.03.2019.

For Petitioner : Mr.S.Namasivayam



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For Respondents : Mr.S.Shanmugam
for M/s.Chennai Law Firm

ORDER

This Contempt Petition has been filed for the alleged disobedience or violation of the undertaking given before this Court on behalf of the respondents which have been recorded by the order of this Court dated 08.03.2019.

2. On that day, the undertaking that was given on behalf of the respondents is, the machineries lying in the premises concerned, shall not be alienated or dismantled and recording the said undertaking given by the respondents side through the learned Senior counsel appearing for the respondents, order to that effect, was passed on 08.03.2019.

3. It is in this context, the present Contempt Petition has been filed alleging that, the said undertaking given on behalf of the respondents on 08.03.2019 since has been violated, as the machineries have either been sold or dismantled.

4. However, it is to be noted that, subsequently, the very main application i.e., A. No. 1920 of 2019 came up before my Successor, where it was informed by the respondents that, some of the machineries removed from the premises, are not for the purpose of sale or dismantle, only for the purpose of repairing it. Noting the said developments, the learned Judge seems to have passed an order directing the respondents to provide the address, where the machineries have been sent for

repairs and also execute a Bank guarantee for a sum of Rs.10,00,000/- (Rupees



Ten Lakhs Only).

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5. Subsequently, the machineries which have been sent for repair somewhere at Noida, since have been brought back to the respondents' premises and in this context, the A. Nos. 1919 and 7682 of 2019 were filed to appoint an Advocate Commissioner to seize the machineries and also to accept the Bank guarantee issued by the concerned Bank on behalf of the respondents. When these applications were taken up for hearing by the learned Judge, who after having taken note of the developments subsequently taken place, was pleased to pass an order on 24.08.2020, where the learned Judge has recorded the following:

"2. The above exercise was done mainly on the basis of rival contentions that the machineries are not available and removed from the place. The report of the Advocate Commissioner would indicates that the machineries are very much available.

3. In such view of the matter, this Court finds that the respondent is to be restrained from alienating or dismantling the machineries till the arbitration is over. It is submitted by the learned counsel appearing for the applicant that the arbitration proceedings is also in the last stage.

4. Having regard to the above, the respondent is restrained from alienating or dismantling the machineries. In view of the above, the Bank



guarantee for a sum of Rs.10 lakhs given by the applicant is released.

5. Accordingly, all the above applications are closed."

6. Therefore, the learned Judge passed a judicial order restraining the respondents from alienating or dismantling the machineries and also found that, the machineries were available in the premises concerned as per the Advocate Commissioner's report. Accordingly, the Bank guarantee given by the respondents was also released.

7. In view of these developments, which have been taken note of by the learned Judge in two different occasions, as has been indicated above, presently the petitioner is having a judicial order from this Court, whereby, the respondents have been restrained from alienating or dismantling the machineries and it was also found by this Court that, the machineries were available with the respondents premises. Hence this Court feels that, the allegations mainly made by the petitioner in the present Contempt Petition that, the respondents have willfully disobeyed the undertaking given by this Court, which has been recorded, by the order of this Court dated 08.03.2019, are not correct and nothing further survives in the Contempt Petition for adjudication. Hence, this Court feels that, this Contempt Petition can be closed. Accordingly, it is closed.



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WEB COPY 8. However, it is open to the petitioner to agitate the issue by filing a fresh Contempt Petition, in case order dated 24.08.2020 referred above, is further violated by the respondents.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

vji

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
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GS/19/04/2021