



Cont.P.No.782 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 23.09.2021**

CORAM:

**THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN**

**Cont.P.No.782 of 2021**  
**and**  
**C.M.P.No.13173 of 2020**  
**in C.R.P.No.3661 of 2018**

M/s.The Cotton Corporation of India Limited,  
Rep.by its Deputy General Manager,  
Mr.R.Jeyakumar,  
No.1057, Trichy Road, Ramanathapuram,  
Coimbatore-641 045.

... Petitioner

VS.

Mr.R.Jagadeesan,  
Managing Director,  
M/s.Thambi Modern Spinning Mills Ltd.,  
Omalur Road, Jagirammappalayam,  
Salem-636 302.

... Respondent

Contempt Petition filed under Section 11 of Contempt of Courts Act, to  
penalize the respondent for the willful disobedience of the order of this Court  
dated 27.08.2020 in C.M.P.No.22339 of 2019 in C.R.P.No.3661 of 2018.

For Petitioner : M/s.Anirudh Krishnan

For Respondents : Mr.D.Shivakumaran



**ORDER**

*(The case has been heard through video conferencing)*

Heard the learned counsel for the petitioner and the learned counsel for the respondent/contemnor.

2. The parties, before this Court, entered into agreement and due to breach committed, the petitioner herein invoked Arbitration Clause. The arbitration award passed against the respondent/contemnor, sought to be enforced by the petitioner herein by filing Execution Petition. As against the order of attachment in E.P., the contemnor herein filed revision petition. Pending disposal of the revision petition, the contemnor herein filed an application for raising the attachment in respect of the item Nos.2 and 3 only to enable the contemnor to mobilize fund to repay and discharge the award amount.

3. This Court, vide order dated 27.08.2020, considered the request made by the contemnor herein and passed the following order:

*“4. In this petition, it is contended that for recovery of Rs.1,00,72,428/- four properties worth more than Rs.75,00,00,000/- were attached, which has crippled the petitioner herein to mobilize fund and pay the decretal amount. It is also stated in the affidavit that, out of four items of properties*

*mentioned above, item Nos.2 to 4 (S.Nos.203/1L,*



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*206/1(part), 206/3(part) and 206/3(part)) have already been encumbered with IDBI Bank by creating equitable mortgage. 1<sup>st</sup> item property (S.No.202/1) according to the petitioner is worth more than Rs.12 crores. Therefore, it is sought to raise attachment over the item Nos.2 to 4 since the interest of decree-holder will be sufficiently satisfied by the attachment of the 1<sup>st</sup> item of property alone.*

*5. The learned counsel appearing for the respondent would submit that for the past 7 years after passing of the award, the petitioner has not shown any bonafide to discharge the decreetal amount inspite of attachment and unless and until they show some bonafide, raising attachment will be prejudicial to the interest of the respondent.*

*6. After giving anxious considering to the rival submission and the undertaking given by the petitioner's counsel to clear the decree amount, (which as on date works out to Rs.1,43,16,893/-) within a period of 3 months by availing loan from IDBI Bank or any other source, this Court is of the view that interim order of raising attachment in respect of Items Nos.2 and 3(S.No.203/1L and 206/1(part) and 206/3(part)) alone be granted as a breather to the petitioner for availing loan from*



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*other source and repay the decretal amount.*

*7. In the result,*

*The following order is passed:-*

*(1)The attachment in R.E.P.No.162/2016 on the file of the Principal District Court, Salem in respect of Item Nos.2 and 3(S.Nos.203/1L, (a)206/1(part) (b)206/3(part)) alone is hereby raised.*

*(2)The petitioner shall pay a sum of Rs.25 lakhs on or before 08.09.2020 and the balance amount within a period of 90 days from today.*

*(3)The Sub Registrar, Jagir Ammapalayam Sub Registrar Office, Salem is directed to record the raising of attachment in respect of the following items:*

*Item No.2---Survey No.203/1L*

*Item No.3---(a)Survey No.206/1(part)*

*(b)Survey No.206/3(part))*

*and issue encumbrance certificate, on application to the petitioner to enable him to raise loan over the properties. Accordingly, this petition is ordered.”*

4.In the instant petition, it is brought to the notice of this Court that, the contemnor has not honoured the undertaking and so far has paid only Rs.35,00,000/- as against the decretal amount of Rs.1,43,16,893/-. Hence,

<https://hcservices.ecourts.gov.in/hcservices> there is a willful disobedience of the Court order. Therefore, the contemnor



should be punished for willful disobedience.

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5.The learned counsel for the contemnor would submit that with all bonafide intention, the contemnor made attempts to raise funds through IDBI bank, which did not fructify, due to other reasons. Hence, the contemnor is making alternate arrangements to pay the dues and there is no willful disobedience on the part of the contemnor.

6.This Court, on considering the submissions, is of the view that, for nearly two years, time was given to the contemnor herein to raise fund and discharge the decretal amount. For the said purpose, the attachment of item Nos.2 and 3 were raised as an interim measure and this Court has made clear in its order dated 27.08.2020 that the interim order of raising attachment is granted as a breather to the contemnor for availing loan from other source to repay the decretal amount. Now, it is clear that despite granting two years time, the contemnor is not able to raise adequate fund and he has paid only Rs.35,00,000/- as against the decretal amount of Rs.1,43,16,893/-. Therefore, interim order of raising attachment in respect of the item Nos.2 and 3 is recalled. The status quo ante as on 26.08.2020 stands restored.

6.As far as the contempt petition is concerned, taking note of the pandemic situation, the inability of the contemnor to mobilize adequate fund and part payment of Rs.35,00,000/-, the contempt petition is closed.



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Connected Civil Miscellaneous Petition No.13173 of 2020 filed for extension of time already granted in the order dated 27.08.2020 in C.M.P.No.22339 of 2020 is also closed.

SD/-  
ASSISTANT REGISTRAR(COMM.CASES)

rpl

//Certified to be true copy//

Dated at Madras this the                      day of                      2021.

COURT OFFICER(O.S.)

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*To:*

The Managing Director,  
M/s.Thambi Modern Spinning Mills Ltd.,  
Omalur Road, Jagirammappalayam,Salem-636 302.

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