

OD 12

ORDER SHEET
CC/39/2021
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Contempt)
ORIGINAL SIDE

AMoorith Pipes and Tubes Private Limited and ANR.
VS
Dadu Dayal Commotrade Limited and ANR.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 2nd February, 2022.

[Via video conference]

Appearance:

Mr. Dhruva Ghosh, Sr. Adv.

Mr. Rohit Banerjee, Adv.

Mr. Suryaneel Das, Adv.

Mr. Aditya Mondal, Adv.

Mr. Aniruddha Mitra, Adv.

Mr. Anirban Ghosh, Adv.

Mr. Deepak Kripalani, Adv.

The Court: The petitioners pray for issuance of a Rule in violation of orders passed by this Court on 7th and 8th July, 2021. By the said orders, the respondents were restrained from obstructing or interfering with the regular affairs of the partnership firm being M/s. K. B. Consortium till further orders.

According to learned counsel appearing, the violation is two-fold. First, counsel relies on photographs of the men and agents of the alleged contemnors outside the gate of the partnership firm and a letter addressed by the partnership

firm to the Officer-in-Charge, Polba Police Station, Hooghly on 21st July, 2021 in that regard. Counsel also places correspondence to show that the respondents are unwilling to part with certain documents which are lying in the registered office of the partnership firm. According to counsel, this act amounts to interference with the working of the partnership firm.

Learned counsel appearing for the alleged contemnors places several agreements to show that the area outside the partnership firm are the subject-matter of these agreements in which the alleged contemnors have an interest. Counsel also relies on a letter written to the partnership firm on 22nd July, 2021 stating that the original documents sought for by the partnership firm are not in possession of the alleged contemnors or in the office premises mentioned in the said letter.

This Court is not convinced that the petitioners have established a case for issuance of a Rule. The photographs annexed to the petition merely show certain persons outside a gate, which is presumably the gate of the partnership firm. The photographs do not suggest that the men are trying to forcibly enter the factory premises. The photographs are, in any event, of only one day, i.e., 21st July, 2021. The complaint made to the police on the same day, i.e., 21st July, 2021 and the allegations made in the complaint to the police are not borne from the photographs. Admittedly, there is no further evidence of the respondents trying to violate the material directions in the order passed by this Court.

With regard to the allegation of the respondents not parting with the original papers lying in the erstwhile registered office of the partnership firm, this Court is of the view that the statements contained in the respondents' letter dated 22nd July, 2021 can be recorded to ensure sufficient protection to the petitioners at least at this stage. The respondents have categorically stated that the original documents sought for in the petitioners' e-mails are not in the respondents' possession or kept at the office situated at 5, Nimtala Ghat Street, Kolkata. The respondents may be held to this position as indicated in the letter.

Further, since admittedly arbitration proceedings have already commenced between the parties, any relief prayed for by the petitioners or any of the parties for that matter can be addressed and resolved in the ongoing arbitration proceedings.

Needless to say, observations made in this order shall not bind the learned Arbitrator in any matter, which may be dealt with in the arbitration proceedings.

CC/39/2021 is disposed of in terms of this order.

(MOUSHUMI BHATTACHARYA, J.)