

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION (L.) NO. 12099 OF 2022
IN
ARBITRATION PETITION NO.235 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11888 OF 2022
IN
ARBITRATION PETITION NO.193 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11889 OF 2022
IN
ARBITRATION PETITION NO.174 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11891 OF 2022
IN
ARBITRATION PETITION NO.244 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11892 OF 2022
IN
ARBITRATION PETITION NO.199 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11895 OF 2022
IN
ARBITRATION PETITION NO.249 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11896 OF 2022
IN
ARBITRATION PETITION NO.247 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11907 OF 2022
IN
ARBITRATION PETITION NO.194 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11923 OF 2022
IN
ARBITRATION PETITION NO.178 OF 2022
and
CONTEMPT PETITION (L.) NO. 12077 OF 2022
IN
ARBITRATION PETITION NO.190 OF 2022**

Shriram Transport Finance Co. Ltd.
Vs.

..Petitioner

Bharti Magoo & Anr.

..Respondents

AND
CONTEMPT PETITION (L.) NO. 11934 OF 2022
IN
ARBITRATION PETITION NO.245 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11937 OF 2022
IN
ARBITRATION PETITION NO.246 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11951 OF 2022
IN
ARBITRATION PETITION NO.185 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11953 OF 2022
IN
ARBITRATION PETITION NO.180 OF 2022
AND
CONTEMPT PETITION (L.) NO. 11956 OF 2022
IN
ARBITRATION PETITION NO.192 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12078 OF 2022
IN
ARBITRATION PETITION NO.181 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12119 OF 2022
IN
ARBITRATION PETITION NO.196 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12158 OF 2022
IN
ARBITRATION PETITION NO.200 OF 2022

Shriram Transport Finance Co. Ltd.

..Petitioner

Vs.

Rounak Jogindersingh Magoo & Anr.

..Respondents

AND
CONTEMPT PETITION (L.) NO. 12076 OF 2022
IN
ARBITRATION PETITION NO.216 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12131 OF 2022

IN
ARBITRATION PETITION NO.218 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12140 OF 2022
IN
ARBITRATION PETITION NO.211 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12143 OF 2022
IN
ARBITRATION PETITION NO.205 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12144 OF 2022
IN
ARBITRATION PETITION NO.176 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12149 OF 2022
IN
ARBITRATION PETITION NO.209 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12150 OF 2022
IN
ARBITRATION PETITION NO.221 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12151 OF 2022
IN
ARBITRATION PETITION NO.213 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12152 OF 2022
IN
ARBITRATION PETITION NO.212 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12153 OF 2022
IN
ARBITRATION PETITION NO.208 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12154 OF 2022
IN
ARBITRATION PETITION NO.214 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12155 OF 2022
IN
ARBITRATION PETITION NO.203 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12157 OF 2022

IN
ARBITRATION PETITION NO.217 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12160 OF 2022
IN
ARBITRATION PETITION NO.215 OF 2022
AND
CONTEMPT PETITION (L.) NO. 12166 OF 2022
IN
ARBITRATION PETITION NO.182 OF 2022

Shriram Transport Finance Co. Ltd. ..Petitioner
Vs.
Jogindersingh Desarajsingh Magoo & Anr. ..Respondents

Mr. Anushak Daver with Ms. Shaista Hadi i/b. Mr. Sachin Masurkar for
Petitioner.
Mr. Ashutosh Singh for Respondents

CORAM : G.S. KULKARNI, J.
DATE : APRIL 26, 2022.

P.C.:

1. This is a batch of 33 contempt petitions filed by the original petitioner-Shriram Transport Finance Co. Ltd. contending that the order dated 07 March, 2022 passed by this Court disposing of the above Section 9 petitions has been intentionally breached by the respondents/ contemnors and more particularly the directions as contained in paragraph 9 whereby a statement on behalf of the respondents was recorded by the Court that the respondents / contemnors shall within a period of two weeks from the date of the said order bring the vehicles to the depots of the petitioner and such statement was accepted as an undertaking to the Court. Paragraph 9 of the said order is required to be noted which reads thus:-

“9. Mr. Daver would inform the Court that the vehicles are now lying in the vicinity of four depots of the petitioner, the details of which are placed on record, as also furnished to the

respondents. Mr. Daver has contended that the Court Receiver, High Court, ought to be appointed, relying on the several orders as passed by this Court in such proceedings. Mr. Shah would however fairly submit that in the present case as the respondents are ready and willing to bring these vehicles to the nearest depots, the details of which are already shared by the respondents with the petitioner, the Court Receiver need not be appointed. He also submits that respondents have no objection for the petitioner to sell the vehicles for which, he states that assistance shall be provided to the respondents. The suggestion of Mr. Shah is quite fair and is required to be accepted in the peculiar facts of the case. Mr. Daver's contention is that these 33 vehicles can be brought to the nearest depots of the petitioner, so that the possession of the vehicles can be taken up by the petitioner. It is submitted that thereafter the vehicles can be sold by the petitioner to realise the amounts due and payable by the respondents, as permitted under the hypothecation agreements. Responding to Mr. Daver's contention, Mr. Shah, on instructions, states that the vehicles can be brought to each of the depots within a period of two weeks from today. Statement of Mr. Shah is accepted."

2. It is submitted by Mr. Daver that the directions as contained in paragraph 11(iv) in respect of the amounts which were received by the respondents-contemnors from the IOCL, in such regard a statement made on behalf of the respondents-contemnors came to be recorded that the respondents have agreed that the proportionate amount qua the 33 vehicles after the permissible adjustment under the contract with IOCL, shall be deposited with the petitioners within a period of two weeks from the date of the said order. The said statement made before the Court was accepted. The said directions read thus:-

"iv. In so far as the amounts as received by the respondents from IOCL as noted by this Court in the earlier orders, Mr. Shah, learned Counsel for the respondents has agreed that the proportionate amount qua the 33 vehicles after the permissible adjustment under the contract with IOCL, shall be deposited with the petitioners within a period of two weeks from today. The statement of Mr. Shah is accepted. This shall include the amount of Rs.5 Lakhs which inadvertently paid despite the prohibitory order passed by this Court. Mr. Shah states that such amount is not utilized."

3. Mr. Daver, learned counsel for the petitioner has contended that the respondents despite the said solemn assurances as made and recorded in paragraph 9 of the said order, have failed to bring the said vehicles to the depots of the petitioner and accordingly, they have avoided the further action to be taken in respect to the said vehicles, as observed by the Court. As also there was an intentional disobedience of the further direction to bring the amount as recorded in paragraph 11(iv) of the said order.

4. The respondents are represented by Mr.Singh. Mr.Singh has tendered before the Court an order dated 08 April, 2022 passed by the Supreme Court contending that the said order dated 07 March, 2022 passed by this Court of which a grievance of disobedience and contempt is made by the petitioner, was assailed by the respondents before the Supreme Court in Petition for Special Leave to Appeal (C) Nos. 5923-5987/2022 on which the following order came to be passed by the Supreme Court:-

“ **ORDER**

From the impugned order, it appears that it is an agreed/consent order. The learned counsel appearing on behalf of the petitioners disputes the same and according to him there was no such agreement. If that is the case of the petitioners, it will be open for the petitioners to file a review application before the High Court and point out that it was not an agreed order. As and when such a review application is filed, the same shall be considered in accordance with law and on its own merits.

With this, the Special Leave Petitions stand disposed of.

It will also be open for the petitioners to point out to the High Court that the petitioners are ready and willing to pay the entire amount due and payable.

Pending application(s), if any, shall stand disposed of.”

5. It is clear that the Supreme Court has observed that the order dated 07 March, 2022 passed by this Court, was an agreed/consent order, however, surprisingly this was disputed on behalf of the

respondents and considering such submission, the Supreme Court observed that it was open for the respondents to file a review application before this Court so as to point out that it was not an agreed order. It is stated by learned counsel for the respondents that no review application has been filed till date and as contended by Mr. Daver rightly so. What is significant is the observation of the Supreme Court in the penultimate paragraph of its order, whereby it has been recorded that it would be open for the respondents to point out to the High Court that the respondents are ready and willing to pay the entire amount due and payable. Mr. Daver pointing out the said observation, would contend that apart from painting a picture before the Supreme Court that the entire amount would be paid, not even the basic compliance of the directions of this Court as contained in paragraphs 9 and 11 are made by the respondents /contemnors.

6. In view of the above discussion, in my opinion, it prima-facie appears to be a clear case where the respondents despite making a solemn statement before the Court, have intentionally disobeyed the order passed by this Court and this appears to be with impunity. Thus prima-facie case has been made out by the petitioner against the respondents to proceed against the respondents under the Contempt of Courts Act read with Article 215 of the Constitution.

7. Accordingly, issue notice to the respondents to show cause as to why an action under the Contempt of Courts Act be not taken and they be not punished for having disobeyed the order dated 07 March, 2022 passed by this Court.

8. Let a reply to the show cause notice be filed within a period of one week from today as the respondents have already notice of the present

proceedings.

9. Let the proceedings be listed before this Court on **05 May, 2022**.

10. The respondents are directed to remain present before the Court on the adjourned date of hearing. There shall not be any further extension to file a reply to the show cause notice.

11. Let the reply affidavit be served on the petitioners well in advance.

12. In the meantime, Mr. Daver has contended that as the respondents are likely to leave the jurisdiction of this Court and/or travel abroad so as to defeat the further proceedings. It would be thus appropriate to direct respondent nos.1 to 3 to deposit their passports with the Prothonotary & Senior Master of this Court by Thursday. They are also directed not to leave the city unless prior permission is obtained from this Court either to travel abroad or to any other place in the country.

13. A copy of this order be also sent to the immigration authorities as also to the local police station within whose jurisdiction the respondents are residing.

14. Parties to act on an authenticated copy of this order.

[G.S. KULKARNI, J.]