IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Contempt Petition No.2014 of 2022
and
Sub Application (OS) No.488 of 2022

Salem Textiles Limited
represented by its Authorized Representative
Mr.P.Rajaram
Having office at
Selliampalayam,
Narasingapuram - 636 108.
Attur Taluk, Salem District. ... Petitioner

Vs.

The Deputy General Manager,
Industrial Financial Corporation of India Ltd.,
Continental Chambers,
No.142, Nungambakkam High Road,
Chennai - 600 034.

Now at:
Mr.Manoj Mittal
Managing Director & Chief Executive Officer,
Industrial Financial Corporation of India Ltd.,
IFCI Towers, 61 Nehru Place,
New Delhi - 110 019. ... Respondent

Contempt Petition filed u/s.11 of the Contempt of Courts Act praying to punish the respondent for willful and wanton disobedience of the order passed by this Court in W.P.No.9940 of 2021 dated 21.04.2021.

For Petitioner : Mr.Akhil Bhansali

For Respondents : Mr.P.Raghunathan

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ORDER

This contempt petition has been filed for the alleged disobedience of the orders of this Court dated 21.04.2021 made in W.P.No.9940 of 2021.

2. In the said writ petition, the following order was passed by this Court:

> "4. Considering the facts and circumstances of the case and the submissions made on either side, this Court, without expressing any opinion on the merits of the case, directs the third respondent to consider the petitioner's OTS Offer/representation dated 12.01.2021 and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner and the persons interested in this regard and by affording them an opportunity of personal hearing or virtual hearing, within a period of four weeks from the date of receipt of a copy of this order."

3. By the said order, a learned Judge of this Court directed only the third respondent in the writ petition to consider the petitioner's OTS offer/representation dated 12.01.2021 and to pass appropriate orders on merits and in accordance with law after issuing notice to the petitioner and the persons interested in this regard and by affording them an opportunity of personal hearing or virtual hearing within a period of four weeks from the date of receipt of a copy of this order.

4. In fact, the said order was passed by the learned Judge at the admission stage without even hearing the respondents.

5. In the said writ petition, the third respondent was none other than the Deputy General Manager, Industrial Financial Corporation of India Ltd., Continental Chambers, No.142, Nungambakkam High Road, Chennai - 600 034, that means, he is an Officer, who is located in Chennai only.

6. The said order, according to the petitioner, has not been

complied with, therefore, the present contempt petition has been filed.

7. When this contempt petition came up for hearing on 21.09.2022, another learned Judge of this Court directed to issue statutory notice returnable by 20.10.2022.

8. It is to be noted that in the contempt petition, the petitioner has arrayed one Mr.Manoj Mittal, Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd., IFCI Towers, 61 Nehru Place, New Delhi - 110 019, as the respondent / contemnor.

9. Though in the cause title, the Deputy General Manager, Industrial Financial Corporation of India Ltd., Continental Chambers, No.142, Nungambakkam High Road, Chennai - 600 034, is stated by the petitioner in the contempt petition, as per the procedure in vogue since the Officer, who allegedly committed contempt, he shall be arrayed as a party by name. Therefore, Mr.Manoj Mittal, Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd., IFCI Towers, 61 Nehru Place, New Delhi - 110 019 has been shown as contemnor as if the third respondent in the original writ petition to whom

the direction was given by the learned Judge.

10. Accordingly, the Registry has issued statutory notice to Mr.Manoj Mittal, Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd., IFCI Towers, 61 Nehru Place, New Delhi - 110 019.

11. Pursuant to the said statutory notice, today, when the contempt petition is taken up for hearing, the said officer, *viz.*, Mr.Manoj Mittal, Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd., IFCI Towers, 61 Nehru Place, New Delhi - 110 019, appeared before this Court.

12. Mr.P.Raghunathan, the learned counsel for the respondent, on instructions, would submit that, though a direction was given by this Court in the said order in the writ petition on 21.04.2021 to consider the representation of the petitioner dated 12.01.2021 and pass orders thereon within a time frame, subsequently some more representations have been given more than once by the petitioner on the same plea and every time improved offer has been made by the petitioner as one time settlement.

All these representations have collectively been considered and last such representation with latest OTS offer given by the petitioner was considered and rejected as not feasible for compliance by the respondent company.

13. Therefore, the learned counsel for the respondent submitted that, the order of this Court has been complied with, but, at the same time since a direction was given only to the Deputy General Manager, Industrial Financial Corporation of India Ltd., unnecessarily, the Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd., is arrayed as a party in the contempt petition, therefore, notice has been served on him and in order to respond the same, all along, he has come from New Delhi and appeared before this Court, he contended.

14. I have considered the submissions made by the learned counsel appearing for the parties.

15. The learned counsel for the petitioner submitted that, at the

time of passing the order by this Court on 21.04.2021 though a direction was given to the Deputy General Manager, Industrial Financial Corporation of India Ltd. at the time of filing the contempt petition, the name of Mr.Manoj Mittal, Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd., has been arrayed as contemnor as if he has committed the contempt.

16. When this Court specifically asked as to why a non-party has been impleaded as a party as if he has committed contempt, there was no specific answer from the learned counsel for the petitioner.

17. The Supreme Court has repeatedly held that the higher level officials or officers, who are heading any institution need not be unnecessarily called for these kind of proceedings by summoning them to appear before the Court. By doing the same, their time, energy and also money would get wasted. That apart, the important work to be attended by the higher officials, especially the officials, who are heading any institution would be heavily affected. Therefore, unless, there is a dire need or necessity, such kind of higher officials need not be summoned to

the Court.

18. However, in this case, since it is a contempt petition and once the contempt petition is moved before this Court, the learned Judge considering the plea raised by the petitioner's side as if the order of this Court has been purposely not complied with, has issued statutory notice to the respondent, who is none other than the Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd.

19. There are two violations on the part of the petitioner in this contempt petition. One is that, when the Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd. is not a party in the writ petition and the direction was issued only to the Deputy General Manager, Industrial Financial Corporation of India Ltd, the name of the Deputy General Manager, Industrial Financial Corporation of India Ltd should have been mentioned in the contempt petition, instead, the Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd. has been arrayed as a party unnecessarily without any plausible reason.

20. Secondly, once a direction was issued by this Court to consider the representation dated 12.01.2021, the petitioner should have awaited for the orders to be passed by the respondent, thereafter only, he could have persuaded with the contempt petition. However, unmindful of the directions issued by this Court, it seems that the petitioner has given further improved offers to the respondent as one time settlement and that has also been considered and rejected by the respondent company. This is the second mistake committed by the petitioner.

21. Therefore, first of all, this Court feels that there has been no willful contempt on the part of the respondent. **S**econdly, the array of Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd. as contemnor or alleged contemnor is a gross misuse of process of law by the petitioner and merely because the petitioner was able to get an order, that too, in the admission stage even without hearing the respondents, it will not give premium to the petitioner to array the head of the institution and in this case, the Managing Director & Chief Executive Officer, Industrial Financial Corporation of

India Ltd., thereby, unnecessarily is troubled as he had to travel all along from New Delhi to appear before this Court pursuant to the statutory notice issued to the respondent. This kind of practice is to be deprecated. The innocent officers, like the respondent, should not have been troubled like this and because of the action in cavailer manner adopted by the petitioner by impleading the Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd. in the contempt petition as if he is responsible for the orders to be complied with or he has committed contempt or he has violated the orders passed by this Court, the said officer has since been impleaded wrongly knowing well that he is not the appropriate officer, this Court feels that, the petitioner has to make good of all the trouble faced by the said officer by way of compensation / cost, which this Court quantifies at Rs.25,000/- [Rupees Twenty Five Thousand only], which shall be paid to the respondent officer/Mr.Manoj Mittal, Managing Director & Chief Executive Officer, Industrial Financial Corporation of India Ltd., IFCI Towers, 61 Nehru Place, New Delhi - 110 019.

22. In view of the order passed by the respondent where the

subsequent applications submitted by the petitioner with improved offer as one time settlement having been considered and rejected by the respondent, absolutely, there is no contempt committed by the respondent company.

Hence, the Contempt Petition is liable to be closed, accordingly, it is closed with the aforesaid order imposing cost/compensation of Rs.25,000/- [Rupees Twenty Five Thousand only] payable by the petitioner to the respondent officer as indicated above within a period of one month form the date of receipt of a copy of this order. Consequently, the connected sub-application is closed.

03.11.2022

Index : Yes/No
gm

R.SURESH KUMAR., J

gm

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