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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 12.10.2022

+ CONT.APP.(C) 19/2022

G P CHOBEY

..... Appellant

Through: Mr. Dinesh Agnani, Sr. Advocate
with Mr. C. P. Vig, Advocate

versus

M/S ISHWAR INDUSTRIES LTD

..... Respondent

Through: Ms.Ekta Mehta & Ms.Akanksha
Agrawal, Advs.

+ CONT.APP.(C) 20/2022

K.K GOLYAN

..... Appellant

Through: Mr. Dinesh Agnani, Sr. Advocate
with Mr. C. P. Vig, Advocate

versus

ISHWAR INDUSTRIES LTD

..... Respondent

Through: Ms.Ekta Mehta & Ms.Akanksha
Agrawal, Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

CM APPL.43325/2022 (exemption) in CONT.APP.(C) 19/2022

CM APPL.44149/2022 (exemption) in CONT.APP.(C) 20/2022

1. Allowed, subject to all just exceptions.
2. The applications are accordingly disposed of.



CM.APPL.43326/2022 (delay) in CONT.APP.(C) 19/2022
CM.APPL.44150/2022 (delay) in CONT.APP.(C) 20/2022

3. Present applications have been filed on behalf of the appellants seeking condonation of delay of 6 days in filing the appeals.
4. In view of the reasons stated in the present applications, the delay of 6 days in filing the appeals is condoned.
5. Accordingly, the present applications are allowed and disposed of.

CONT.APP.(C) 19/2022 in CM APPL.43324/2022
CONT.APP.(C) 20/2022 in CM APPL.44148/2022

6. The above captioned two petitions have been filed by the petitioners seeking setting aside of order dated 21.07.2022 passed by the learned Single Judge of this Court in *EX.F.A.5/2021* titled as “*M/s Nulon India Ltd. vs. Ishwar Industries Ltd.*”
7. The appellants have challenged the impugned order dated 21.07.2022.
8. We have perused the same and vide para 24, the learned Single Judge has observed as under:

“24. Considering the above settled legal position and that the Contemnors have repeatedly made false and incorrect statements to the Court and have also raised misleading pleas in their pleadings and submissions only to remain in possession of the suit property for more than 15 years after the suit was filed, the contemnors are held guilty of contempt of this Court. The apologies tendered are accepted by the Court subject to the condition that the Contemnors-Mr.K.K. Golyan, Director and Mr.G.P. Chobey, the Authorized Representative of the appellant/Objector company shall pay Rs.50,00,000/- and Rs.20,00,000/- respectively, to the respondent, within three months. If the said payments are not made, the Contemnors would be liable to be sentenced to imprisonment for 15 days each. Ordered accordingly. If the amounts as directed are paid, the show cause notice for contempt shall stand discharged and adjustment of 50% of the said amount shall be given by the Executing Court as part of the amount payable under the decree.”



9. Learned counsel for the appellants submits that the amount(s) of Rs.50,00,000/- and Rs.20,00,000/- imposed towards fine are beyond the scope of Section 12 of the Contempt of Courts Act whereas counsel for the respondent submits that the said amount(s) have not been imposed towards fine and are towards costs in terms of Section 35A of the Code of Civil Procedure, 1908 and only if the contemnors fail to pay the same, they will be liable to a sentence of imprisonment for 15 days each.

10. Since the said order is not clear to that extent, therefore, we hereby dispose of the present appeals requesting the learned Single Judge to clarify para 24 of the impugned order dated 21.07.2022.

11. In view of above discussion, both the appeals are disposed of.

12. Till the learned Single Judge passes fresh order, the direction passed in the order dated 21.07.2022 shall remain stayed.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

OCTOBER 12, 2022/ab