

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Contempt)
ORIGINAL SIDE

CC NO.89/2023
WITH
CS/252/2007

SANJIB KUMAR DALMIA
VS
MR. RITZU GHOSHAL LEARNED JOINT RECEIVER AND ORS.

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

Date : 8TH SEPTEMBER, 2023

Appearance

Mr. Imtiaz Ahmed, Advocate

Mr. Mahesh Joshi, Advocate

Mr. Sandeep Joshi, Advocate

Mr. Swarnaly Das, Advocate

...for the petitioner

Mr. Sakya Sen, Advocate

Mr. Priyankar Saha, Advocate

... for the contemnor nos.1 & 2

Mr. Rajarshi Dutta, Advocate

Mr. Deepak Kumar Jain, Advocate

...for the contemnor nos.3 & 4

The Court: On 16th May, 2013, this Court had appointed the alleged contemnor nos.1 and 2 as Joint Receivers replacing the out going Receiver to carry out the directions in the order dated 14th July, 2008. One of the duties of the Joint Receivers was to collect rent and occupation charges from the occupants. It goes without saying that as part of the duties of the Joint Receivers they were to ensure that there was no fresh induction of the occupants into the premises without the leave of the Court.

Now, it is alleged by the petitioner that without any permission of the Court, the Joint Receivers have inducted into the premises the persons described at page 14 of the contempt petition and are also wrongfully collecting occupation charges from them.

This is seriously denied by Mr. Sakya Sen, learned advocate appearing for the alleged contemnor nos.1 and 2 and Mr. Rajarshi Dutta, learned advocate appearing for the alleged contemnor nos.3 and 4.

Mr. Dutta questions the maintainability of this application.

It has been brought to my notice that the defendant no. 2 in the suit has already filed an application affirmed before the notary public sometime in April, 2022 making substantially the above allegations against the alleged contemnors and praying, inter alia, for the following reliefs:-

- a) *The Joint Receivers appointed by this Hon'ble Court on 13th May 2013 be removed;*
- b) *A fit and proper person be appointed Receiver in respect of the said premises to carry out the direction as contained in the order dated 14th July 2008 passed by this Hon'ble Court;*
- c) *The incumbent Receiver be directed to make fresh inventory in respect of the said premises in presence of all parties to the suit and submit a Report before this Hon'ble Court mentioning the names of the tenants/occupants and the area under their occupation at the said premises;*
- d) *The incumbent Receiver be directed to collect rent from all the tenants/occupants of the said premises whose names are included in the Report dated 20th January 2009;*
- e) *The incumbent Receiver be directed to take appropriate steps for restoration of possession to the tenants/occupants who were in existence as on 11th January 2009 and whose names are mentioned in the Report dated 20th January 2009 by evicting or removing any person or persons or body or bodies there from whose name is not mentioned in the Report dated 20th January 2009;*
- h) *The outgoing Joint Receivers be directed to handover the charge, accounts and all documents and papers relating to the said premises to the incumbent Receiver.*

It is an admitted position that this application has not been moved till date.

It is also submitted before me that a substantive suit has been filed against the Joint Receiver (CS 446 OF 2023) on similar accusations.

In my view, when a Receiver has been appointed, it is for the particular court exercising jurisdiction over the subject matter to adjudicate upon the allegation made against the Receiver and to come to a conclusion whether the Receiver had acted in terms of its order or is guilty of violation thereof. That lis is pending in this court in the shape of

the application filed in April, 2022. It would be within the province of that Court even to hold whether prima facie the Receiver is guilty of contumacious conduct. A Receiver appointed by the court is to be treated with utmost respect with regard to the duties discharged by him and that any person making an allegation of violation of court's order by the Receiver must be careful in making the allegation after having fully satisfied himself about the truth of the submission being made. The court should also be equally circumspect in dealing with such an allegation against the Receiver.

This application alleging contempt is premature and disposed of with the above observations with liberty to the petitioner to file a fresh application if and when such right accrues to him.

I make it clear that the question of maintainability raised by Mr. Dutta was not gone into by me and that the question is kept open.

At this point of time, Mr. Sen submits that the Joint Receivers are desirous of being discharged.

I grant liberty to Mr. Sen's client to approach the appropriate court for that purpose.

As affidavits were not invited, the allegations contained in the contempt-petition are deemed to have been not admitted.

(I. P. MUKERJI, J.)