

ORDER SHEET

CC/71/2022
IA NO: GA/1/2023

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

VIJAY KUMAR BERLIA
VERSUS
PARIMAL VIBHASH MEHTA AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 3rd August, 2023.

Appearance:

Mr. Kishore Datta, Sr. Adv.
Mr. Sagar Bandopadhyay, Adv.
Mr. Lalit Baid, Adv.
Mr. M.P. Sahay, Adv.
Mr. Ratul Das, Adv.
Mr. Tamoghna Saha, Adv.
Ms. Aparupa Ghosal, Adv.
Ms. Saberi Saha, Adv.
..for the petitioner

Mr. Ratnanko Banerji, Sr. Adv.
Mr. S.E. Huda, Adv.
Mr. Varun Kedia, Adv.
Mr. Avee Jaiswal, Adv.
..for the alleged contemnors

The Court: The present contempt arises out of a judgment and order delivered by this Court on 4th October, 2021. The judgment was passed in an application of the plaintiffs who sought an injunction on the sale of a property belonging to the defendant no.15 Company. The property consisted of 20 acres of land at Thane, Maharashtra. The defendant nos.3, 5 and 16 supported the application of the plaintiffs. The application was opposed by the defendant no.15 Company on the ground that the concerned property is

required to be sold to tide over the losses faced by the company during the pandemic. The defendant no.15 Company argued, through learned counsel, that the valuation done for the sale could not be called into question.

Upon considering the competing contentions of the parties, the Court directed a fresh valuation of the land which was to be done by an accredited valuer based in Maharashtra with necessary expertise to conduct the valuation. The plaintiffs and the defendant no.3 on the one hand and the defendant nos.15, 1 and 2 on the other were directed to appoint an independent valuer of their choice for conducting the valuation of the Thane property. The parties were given a time-limit of four weeks from the date of the order for completing the exercise.

The defendant no.3 has brought the contempt to the Court. The grievance is that the defendant no.15 Company together with its Directors (the alleged contemnors) have violated the directions passed by the Court. The contention, in essence, is that the valuation was done in an opaque manner without sufficient notice to the petitioner of the proposed buyer, Dhruva Woollen Mills. Learned counsel further submits that the valuation was done contrary to the directions of the Court and takes into account the value of vacant land as opposed to industrial land.

Learned counsel appearing for the defendant no.15 opposes the contentions as stated above.

The directions passed by the Court in the judgment and order dated 4th October, 2021 were as follows:

- (a) A fresh valuation would be done of the land at Thane, Maharashtra.

- (b) The valuer should have the necessary credentials and expertise.
- (c) The parties on each side of the arguments would appoint an individual valuer of their choice for the fresh valuation of the Thane property.
- (d) The valuer would have to be appointed within four weeks from the date of the order.
- (e) The valuer must be based in Maharashtra.

The subsequent facts indicate that the petitioners gave a list of four valuers by their lawyer's letter of 25th October, 2021. One of the four, namely, Colliers International (India) Property Services Private Limited was chosen as the valuer by the representing lawyer of the defendant no.15. Colliers International (India) Property Services Private Limited was chosen as the valuer by way of a letter dated 24th December, 2021.

The parties, however, approached the co-ordinate Bench for choosing a valuer and by an order dated 27th January, 2022, the co-ordinate Bench appointed CBRE South Asia Private Limited as the valuer for carrying out the above exercise.

The subsequent events as disclosed by the documents indicate that the valuation of the Thane property was completed as on 10th March, 2022 and communicated to the petitioner on 29th March, 2022. The valuation of the property came to Rs.297.7 crores. The property was thereafter sold to Dhruva Woollen Mills by 31st March, 2022.

The grievance of the petitioners of the quantum of valuation or the manner of the valuation; more specifically that the valuation was done on the basis of the property being vacant land as opposed to industrial land is a

matter which falls beyond the contempt jurisdiction of this Court. The other grievance of the allegedly hasty sale of the property to the buyer is also a matter which cannot be gone into in the present application. The events subsequent to the order/directions show that the parties have undertaken a fresh valuation of the property at Thane and by a valuer based in Maharashtra and more significantly chosen by the Court and that too from one of the four valuers suggested by the petitioners. Any grievance with regard to the quantum of the value of the land or the assessment of the nature of the land is a matter which can only be gone into in an independent proceedings filed by the petitioners/defendant no.3, if the petitioners are so advised. The material shown to the Court does not indicate any disobedience, leave alone the intended or blatant, which would attract the contempt jurisdiction of this Court.

CC/71/2022 is accordingly dismissed. All connected applications are disposed of.

There shall be no order as to costs.

(MOUSHUMI BHATTACHARYA, J.)