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

% ***Date of decision: 21.11.2023***

+ **CONT.CAS.(CRL) 5/2023**

COURT ON ITS OWN MOTION

..... Petitioner

Through:

versus

MONICA CHADHA AND ANR.

..... Respondents

**Through: Ms.Swathi Sukumar, Ms.Nishtha
Khurana, Ms.Kinjal Goyal,
Mr.Ishwar Mohapatra & Mr.Pratyush
Rao, Advs.**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T (oral)

1. The present contempt appeal is in Contempt Petition No.8/2021 by way of reference of learned District Judge (Commercial Courts), North-West, Rohini, Delhi in pursuance of order dated 28.03.2023 against willful disobedience and interference and obstructions in administration of justice by the respondents.

2. The brief background of the case is that M/s Century World had preferred a suit bearing No. [CS(COMM) No.393/2021 titled as *M/s Century World vs. Midha Steel Industries & Ors.*] seeking permanent injunction restraining infringement, passing off and rendition of account,



etc. against the respondents herein and vide order dated 10.08.2021, learned court had appointed Local Commissioner to visit the spot where infringing material was available. The learned Local Commissioner visited the premises of respondent Nos.1 & 2 where respondents along with their staff was present. The premises was searched and the infringed goods were seized, however, the respondents did not allow to search the other portion of residential house, which was locked. While the learned Local Commissioner was in the process of picking the infringed material and in the process, he took help of driver of the plaintiff company in which ruckus was created by the respondents. Thereafter 7-8 miscreants also entered the premises and the respondents obstructed the learned Local Commissioner from performing his duties. One of the persons stopped the learned Local Commissioner by stating that they did not obey order of the Court and asked him to delete photographs. Respondent no.2 with the help of miscreants caught hold off the cameraman and forcefully took his camera in order to delete all the photos and videos of the infringing goods. Further they had locked the main gate from inside in order to confine learned Local Commissioner and other people assisting him and fearing for their lives, the learned Local Commissioner alongwith other people assisting him and counsel for the petitioner had to flee away from the spot. However, the cameraman was confined by respondent No.2 with the help of the miscreants. According to the learned Local Commissioner, a PCR car of UP Police was standing in front of the premises but no assistance was provided.

3. Vide order dated 25.07.2022, a show cause notice was issued to the respondents as to why the matter be not sent to Delhi High Court for initiating contempt proceedings against them.



4. The respondent Nos.3 & 4 in their reply before the learned District Judge stated that they had assisted the learned Local Commissioner to their best and stated that the learned Local Commissioner had adopted a very hostile attitude to browbeat and intimate the respondents claiming that she would be jailed immediately if there was even a whisper from her against allowing them to proceed to inspect the premises but there was no threat or obstructions from the side of the respondents at any stage. It was stated that the main gate was open all the time and no one was confined as has been alleged by the plaintiff.

5. Learned District Judge vide order dated 28.03.2023 observed and held as under:

“18. Firstly coming as to who was present at the spot. Indisputably, both respondents nos. 1 and 2, who are husband and wife, were present at the premises when local commissioner visited the same in pursuant to court's order to execute commission. Their staff were also present. Firstly, the local commissioner inspected the Ground Floor where he found infringing goods and thereafter he requested to search the remaining premises i.e. first floor and second floor, it is when both respondents did not allow him. 100 PCR call was made and two police officials arrived at the spot.

19. Petitioner had filed CD which contains videos showing local commissioner collecting infringing material, arguments going on in between local commissioner and respondents nos. 1 and 2 and representative of plaintiff. Photographs of the infringing material, which was collected by them, is also filed. Two police men were also seen in the video. The videos also focus on the infringing material kept in the premises which shows it was huge in quantity.

20. The respondent had also filed one pen drive containing two videos which appears to be captured from CCTV of the same camera of different time which show normal activity.



21. Report of the local commissioner is detailed and corroborates version given by the petitioner. It is apparent that the infringing materials were found at the spot. The pen drive given by the respondents nos. 1 and 2 show footage captured by same camera of different times but did not show infringing material and other photographs of the house from where local commissioner visited.

22. It is needless to say that local commissioner was carrying out his duty in pursuant to said order dated 10-8-2021 and infringing materials were also found at the spot and accordingly he was preparing inventory to hand over same to respondents nos. 1 and 2 on superdari. Therefore, it is apparent that order of this Court dated 10-8-2021 has been flouted by respondents nos. 1 and 2 and local commissioner was obstructed in carrying out lawful duty assigned by the court.

23. xxxxxxxx

24. The facts reveals that there appears to be prima facie willful disobedience and interference and obstructions in administration of justice to the order passed by Ld. Predecessor of this Court against respondents. Therefore in the totality of the facts and circumstances, this Court is of the opinion that it is a fit case where matter should be referred to Hon'ble High Court of Delhi for initiating contempt proceedings against all four respondents."

6. This Court vide order dated 21.04.2023 taking note of the afore-noted facts of the case held as under:

"5. In my opinion, the above acts of the respondent nos. 3 and 4, though, extremely regretful and may amount to a civil contempt as they had failed to comply with the direction issued by the Court, in absence of any allegation that they intended to or took part in the acts of the respondent nos. 1 and 2 of obstructing the learned Local Commissioner from performing his duties, a case for initiation of proceedings of criminal contempt are not made out against them. It is also important to note that



respondent nos.3 and 4 were not impleaded in the contempt proceedings by the learned District Judge in their personal capacity.

6. In my opinion, therefore, while this is a fit for initiating proceedings of criminal contempt against the respondent nos.1 and 2, no case against the respondent nos.3 and 4 is made out.”

7. When this appeal came up for hearing on 27.04.2023, a Show Cause Notice was issued against respondent No.1, namely, Ms. Monica Chadha, Proprietor of M/s National Hardware Products, r/o C-2 Patel Nagar-II, Ghaziabad, UP-201010 and respondent No. 2, namely, Mr. Vikash Chadha, r/o C-2, Patel Nagar-II, Ghaziabad, UP-201010, as to why proceedings for contempt petition be not initiated against them.

8. In their reply to the Show Cause Notice, the Contemnors/respondents No.1 & 2 stated that on 12.08.2021 around 1-1:30 pm, five persons representing themselves as Local Commissioner, associates of the Local Commissioner, Mr.Anmol Chadda (counsel of the Plaintiff accompanied by his colleague) as plaintiff's driver / employee, visited the Site where the respondents were already present. The learned Local Commissioner read and explained the scope of the order dated 10.08.2021 passed of the Learned District Judge (Commercial) and even though the respondents were shocked to read the documents and orders passed by the learned District Judge (Commercial) and they were not aware of the aforementioned suit proceedings initiated by the plaintiff before Rohini Court and furthermore similar proceedings were already pending before the learned District Judge at Noida. However, allowed the learned Local Commissioner to search the property and conduct his duties in terms of the order, without any demur,



protest or restriction. The respondents immediately contacted their advocate who advised the respondents to cooperate to the full extent and the respondents, acting on the advice of their counsel as well as the learned Local Commissioner and his team, permitted to carry out the search and seizure without any obstruction whatsoever.

9. It is further stated in the reply that during the commission, the learned Local Commissioner searched all the floors at the site, seized the alleged infringed goods, properly sealed the seized materials and prepared an inventory which was enclosed with his report submitted by the learned Local Commissioner before learned District Judge (Commercial). The Respondents did not cause or intent to cause any obstruction to the learned Local Commissioner in carrying out his duties in pursuance of order dated 10.08.2021. However, despite the fact that the respondents were assisting and cooperating with the learned Local Commissioner, the learned Local Commissioner as well as the counsel of the plaintiff adopted a very hostile attitude towards the respondents and attempted to intimidate and threaten the respondents.

10. The respondent Nos.1 & 2/Contemnors are present in Court with their counsel, who submits that learned Local Commissioner was unauthorizedly accompanied by an employee / driver of the plaintiff. When the respondent No.1 saw the said person, she raised an objection, however, learned Local Commissioner deliberately did not pay any attention to this objection. The learned Local Commissioner has submitted a completely false and exaggerated report by alleging that nothing could be seized and the respondents obstructed in carrying out the commission or that respondents



had called miscreants, who obstructed the learned Local Commissioner and damaged the camera.

11. It is further submitted that plaintiff-company filed the subject Contempt Petition, alleging that the respondents have flagrantly and intentionally disobeyed the order dated 10.08.2021 by obstructing the learned Local Commissioner in performing his duties as directed by the learned District Judge (Commercial).

12. At this stage, learned counsel appearing on behalf of respondent Nos.1 & 2 has submitted that the entire incident is quite unfortunate and though facts have been misrepresented before this Court, however, they do not intend to disobey the orders of the Court and that these respondents have great respect for the Court. Learned counsel submits that respondent Nos.1 & 2 are ready to tender their unconditional apology for the untoward incident.

13. Respondent No.1 has fairly conceded that since the driver/employee of the plaintiff company was making a video of the entire incident, she got anxious and therefore, interjected questioning the same and asked the learned Local Commissioner to stop him from recording the video. This is the only incident of disturbance that took place at the relevant time and for the rest of the time, she fully cooperated with the learned Local Commissioner. She submits that she had signed all the documents which she was asked to sign by the learned Local Commissioner.

14. We have perused the apology affidavit wherein it is submitted that respondents hold the deepest and highest regard for the Courts and due process of law. They have not deliberately or willfully disobeyed the orders passed by learned District Judge (Commercial) or any other Court of law at



any point of time or caused or intended to cause any obstruction in the administration of justice in any manner. Having considered the facts of this case and material placed on record, we find that the respondents are guilty of contempt, however, since respondents have tendered an unconditional, unqualified and sincere apology to this Court, we hereby accept apology and discharge the respondent Nos.1 & 2/Contemnors from the proceedings.

15. In the light of above, the present petition is disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SHALINDER KAUR)
JUDGE

NOVEMBER 21, 2023/ab