

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CONTEMPT)
ORIGINAL SIDE

CC/4/2024

J. H. INDUSTRIAL CORPORATION
VS
VIJENDRA KUMAR GOEL

BEFORE:
THE HON'BLE JUSTICE SUGATO MAJUMDAR
Date: 12th December, 2024

Appearance:

Mr. Sourajit Dasgupta, Adv.

Mr. S. G. Muskara, Adv.

...for the Petitioner

Mr. Rupak Ghosh, Adv.

Mr. Arnab Dutt, Adv.

...for the Respondent

The Court: The instant application is filed by the petitioner alleging deliberate disobey of the Order of this Court passed on 11th December, 2023.

By a judgment and decree dated 7th January, 2016, passed by this Court in CS No.58 of 2014, the Contemnor herein was directed to pay the decretal amount along with interest. Decree was unsatisfied leading to drawing up of execution proceeding. The Execution Petition was numbered as EC No. 507 of 2016. Warrant of arrest was issued against the Contemnor by the Bench having determination to hear the execution proceedings. Since this Court was in charge on the day of production of the alleged Contemnor, in execution of the warrant of arrest, the alleged Contemnor

was produced before this Court 11/12/2023. In the witness box, the alleged Contemnor made an undertaking before this Court and this Court directed that Rs.3,00,000/- shall be paid within forty eight hours before the Learned Registrar, Original Side; the judgment-debtor/the alleged Contemnor should deposit 50 per cent of the principal decretal amount on or before 1st January, 2024. The balance amount of half of the decretal amount minus Rs.3,00,000/- shall be deposited before the Learned Registrar, Original Side on or before 4th January, 2024, in case of failure of which, release of the alleged Contemnor should stand cancelled and the alleged Contemnor should be re-arrested. On the same day, the alleged Contemnor was released on condition of deposit of Rs.3,00,000/- within forty eight hours with the Learned Registrar, Original Side.

Although Rs.3,00,000/- was deposited by the alleged Contemnor within forty eight hours ensuring his release, the alleged Contemnor failed to deposit the rest of the amount as directed, leading to filing of the instant contempt application.

In Affidavit-in-Opposition, it is stated that the judgment-debtor/the alleged Contemnor has already deposited an amount of Rs.10,29,000/- in partial satisfaction of the decree in the execution proceeding. It is contended further that the petitioner failed to state that the judgment-debtor, with *bona fide* intention to honour the order of this Court, filed GA 4 of 2024, praying for a deposit of Rs.6,12,000/-, which was allowed by the Co-ordinate Bench. It is contended along with that the contempt application suffers from suppression of material facts.

I have heard rival submissions.

A contempt should not be a tool in the hand of a litigant to wriggle out unpaid decretal amount, either parallel to or circumventing an appropriate proceeding.

Rigours of the contempt proceeding should not be a decree to be used to frighten a litigant, may he be a judgment-debtor. The alleged Contemnor paid certain decretal amount on permission of a Co-ordinate Bench. Nothing is there to indicate a willful flouting of the order of this Court. Rather there is material suppression of facts by the Petitioner and a substantial compliance with the order of this Court dated 23/12/2023.

It is redundant, therefore, to proceed with the instant application and the same stands disposed of with direction to pursue the execution proceeding.

(SUGATO MAJUMDAR, J.)