

OD – 10 & 11

IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
ORIGINAL SIDE

RVWO/33/2024
WITH CC/26/2024
FCIB ENFORCEMENT AND DETECTIVE AGENCY PRIVATE LIMITED
VS
ALOK PRIYADARSHI AND ORS

RVWO/34/2024
WITH CC/26/2024
IA NO: GA/1/2024
FCIB ENFORCEMENT AND DETECTIVE AGENCY PRIVATE LIMITED AND ANR
VS
ALOK PRIYADARSHI AND ORS

BEFORE :
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
DATE : 22nd November, 2024.

Appearance :
Mr. Shaunak Ghosh, Adv.,
Mr., Rajib Mullick, Adv.
,...for petitioner.

Ms. Parna Roy Choudhury, Adv. ...for Bank.

The Court :- RVWO 34 of 20204 is in connection with the main order whereas RVWO 33 of 2024 arises out of a consequential order. As such, on agreement, RVWO 34 of 2024 is taken up first.

Learned Counsel for the petitioner argued that a sum to the tune of Rs.23 lakhs and odd was due from the bank to the petitioner.

However, it is submitted that while passing the order under review, the Court erroneously observed that the petitioner itself, as evident from a representation of

the petitioner annexed to the contempt application, had confined its claims to the tune of Rs.10,19,520/-.

It is submitted by learned Counsel that it will be evident from the annexures to the contempt application that the claim of the petitioner was not Rs.10,19,520/- but to the tune of Rs.23,93,040/-/.

Learned Counsel contends that there were previous rounds of litigation. In the first litigation, the petitioner had confined its claim to one of the instances of dues which was to the tune of Rs. Rs.10,19,520/- whereas in the second writ petition, the petitioner had made a composite claim for the previous dues of Rs. Rs.10,19,520/- and in addition thereto, other dues for other instances of work done by the petitioner for the bank, coming to a composite amount of Rs.23,93,040/-.

During arguments, learned Counsel for the petitioner places paragraph 10 of the original contempt application, from which it is clear that in the facts and circumstances as stated thereinabove, a sum of Rs. Rs.10,19,520/- had become due and payable by the respondent no. 2 to the petitioner on account of the bills raised by the petitioner upon the respondent no. 3, being the Assistant General Manager of Punjab National Bank.

Again, learned Counsel places reliance on paragraph 43 of the contempt application where it was stated that the contemnors, after considering the bills of the petitioner, sent e-mails to the petitioner on February 28, 2024, wherein the contemnors, without giving any opportunity of hearing to the petitioner, came to a perverse finding that a sum of Rs.8,49,600/- was due and payable. Learned Counsel for the petitioner now submits that this amount was not paid to the petitioner.

Heard learned Counsel.

However, even if the two sums as mentioned in paragraph no. 10 and paragraph no. 43 of the contempt application are added together, the sum which we arrive at is less than Rs.23,93,040/-.

That apart, although the petitioner, in its contempt application, had pleaded in paragraph 25 that another writ petitioner bearing no.WPO/1481/2023 had been filed claiming disbursal of Rs.23,93,040/-, the contempt application does not contain a single pleading regarding such sum being due and outstanding.

Rather, paragraph 10 of the contempt application, read in conjunction with paragraph 43 (the latter finds place after paragraph 25 where the claim of Rs.23,93,040/- had been mentioned), shows unambiguously that out of the claim of Rs.10,19,520/-, which was due and payable, the bank had admitted only a lesser amount of Rs.8,49,600/-

Thus, by no stretch of imagination can we find any pleading in the contempt application which fixed the due and payable amount to the petitioner at Rs.23,93,040/-. Rather, paragraph 10 categorically states that a sum of Rs.10,19,520/- had become due and payable. In the subsequent paragraphs, such as paragraph 11, the petitioner carries forward the same theme by stating that in such facts and circumstances the petitioner had made a demand justice for determining the outstanding dues and thereafter the subsequent narrative of events has been stated, which culminates in the bank having admitted a lesser amount of Rs.8,49,600/-.

The said pleadings formed the premise of the subsequent pleadings in the contempt application and ultimately the petitioner claimed that the bank had committed a contumacious action by not paying the amount as pleaded in the

contempt application which, as per paragraph 10 thereof, is only to the tune of Rs. Rs.10,19,520/-.

In the order under review dated May 16, 2024, the Court observed that learned Counsel for the contemnors had submitted that the claim of the petitioner itself, as evident from the representation of the petitioner at page 93 of the contempt application, was to the tune of Rs. Rs.10,19,520/- and on all a sudden the subsequent claim of Rs.23,93,040/- was being raised. In such circumstances, the Court observed that since the bank had admitted that it intended to pay the claim dues of Rs. Rs.10,19,520/-, there could not be any reason for keeping the contempt application pending.

Hence, not only on a bare perusal of the order under review, which should be the only determinant in a review application, the court, even on a perusal of the pleadings in the contempt application itself, fails to find a single line of pleading on oath as to the dues of the petitioner from the alleged contemnor being more than Rs. Rs.10,19,520/-.

In such view of the matter, the petitioner has grossly failed to make out any case of error apparent on the face of record or discovery of any subsequent germane fact or any other ground akin thereto. Hence, I do not find any scope of review of the order dated May 16,2024 passed in CC/26/2024. Also, in the subsequent order dated June 25, 2024 passed in the contempt application, the petitioner is recorded to have stuck to its claim and did not raise any demur regarding the amount due being Rs.10,19,520/-.

Since the other review application arises from the order dated June 25, 2024 passed in connection with CC/26/2024, which is merely consequential to the

previous order under review, there is no scope of interference with the order dated June 25, 2024 as well.

Hence, RVWO 33 of 2024 and RVWO 34 of 2024 are dismissed on contest without, however, any order as to costs.

(SABYASACHI BHATTACHARYYA,J.)

Pkd/GH.