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Cont.P.No.523 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2024

CORAM :

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.SIVAGNANAM

Contempt Petition No.523 of 2022

M/s Kotak Mahindra Bank Ltd.,
Asset Reconstruction Division
rep.by its Vice President
402 L "Samson Towers", 5th Floor
Pantheon Road, Egmore
Chennai 600 008

.. Petitioner

v.

1. Mr.A.Manohar Prasad (Insolvent)
2. Smt.A.Indira Anand
3. Mr.A.Anand Prasad
4. Ms.A.Chandini
5. Mrs.A.Sai Sivajyoti
6. Ms.A.Lakshmi Anandhi
7. Ms.A.Anjali Krishna Mani

8. Mr.U.Sivakumar
The Sub Registrar, Adyar
Office of the Sub Registrar
Adyar, Chennai 600 020



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9. Mr.S.Raja

The Sub Registrar, T.Nagar

Office of the Sub Registrar

T.Nagar, Chennai 600 035

(8th & 9th respondents name amended vide
order dated 19.10.2023 in Sub Apln.751/23
in Cont.P.No.523/22)

10.Mr.Chendurpandian

The Sub Registrar

Chennai South Joint-1

537 Teynampet, Nandanam

Chennai 600 035

.. Respondents

Contempt Petition is filed under Section 15 of the Contempt of Courts Act, 1971 praying to initiate criminal contempt proceedings as against the respondents 1 to 10.

For Petitioner :: Mr.E.Om Prakash
Senior Counsel for
Mr.P.Elanya Rajkumar

For Respondents :: Mr.N.Srinivasan for
Mr.M.Ashwinkumar for R1 & R2
Mr.C.Vigneswaran for R3 to R7
Mr.P.Kumaresan
Additional Advocate General
assisted by
Mr.S.John J.Raja Singh
Additional Government Pleader
for R8 & R9
Mr.B.Gopalakrishnan for R10



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ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

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The contempt petition on hand has been instituted under Section 15 of the Contempt of Courts Act, 1971 to initiate criminal contempt proceedings against the respondents for their intentional interference with the administration of justice.

2. The learned Senior Counsel Mr.Om Prakash would mainly contend that in spite of several orders from the civil Court including the orders of attachment of property, the petitioner-M/s Kotak Mahindra Bank Limited is unable to realize the amounts due to them. A compromise decree was entered into between the petitioner and the private respondents on 26.03.2007 and in spite of that, the petitioner Bank is unable to realize the loan amount due to them. Since the private respondents had executed a settlement deed amongst the family members, which was registered without considering the attachment orders passed by various Courts, the learned Senior Counsel submitted that the Sub Registrars also committed criminal



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contempt. The learned Senior Counsel would rely on the judgments of the

Hon'ble Supreme Court in *Dulal Chandra Bhar v. Sukumar Banerjee*, 1958

SCC OnLine Cal 176 and in *Prashant Bhushan, In re*, (2021) 1 SCC 745.

3. No doubt, the Hon'ble Supreme Court made several observations regarding the exercise of powers by the High Courts and Supreme Court under Section 15 of the Contempt of Courts Act. However, it is not necessary to examine the facts for the purpose of forming an opinion.

4. The complaint filed by the petitioner before this Court reveals that the compromise was originally made between M/s Ind Bank Merchant Banking Services Limited and the private respondents in C.S.Nos.1023 of 1998, 33, 52 & 225 of 1999 on the file of the High Court of Madras. Subsequently, the decree debts were assigned by the said M/s Ind Bank Merchant Banking Services Limited in favour of the petitioner Bank, namely, Kotak Mahindra Bank Limited in the year 2006, where fresh terms were entered into in respect of the said debt and three other suits were pending for disposal during the relevant point of time. After signing the



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compromise memo, the petitioner Bank approached the Debts Recovery Tribunal by filing Original Application Nos.46, 47 & 48 of 2008 seeking for recovery based on the compromise decrees passed by the High Court of Madras in respect of the above stated civil suits. Thus, the petitioner-Kotak Mahindra Bank Limited had not directly entered into a compromise in the civil suits, but filed applications before the Debts Recovery Tribunal seeking for recovery of the amount based on the compromise decrees passed in the civil suits before the High Court of Madras.

5. Considering the complex nature of civil disputes between the parties, the fact remains that the contempt has been not filed against any orders of Court, but on the ground that the private respondents are continuously disobeying the orders of Court and not permitting the petitioner to execute the terms and conditions stipulated in the compromise decrees.

6. Section 2(c) of the Contempt of Courts Act, 1971 defines “criminal contempt” means the publication (whether by words, spoken or written, or



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by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which--(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

7. Though in certain circumstances the High Courts entertain criminal contempt applications on the ground that there is wilful disobedience of the directions issued by the Court, the same cannot be applied in all cases in a routine manner. The Court has to examine whether alternate, efficacious remedy is available to the person who is approaching the Court seeking to initiate criminal contempt proceedings.

8. In the present case, an application was filed before the learned Advocate General seeking his consent. Two Advocate Generals have not given their consent to file a contempt petition and the petition was referred for the decision of the Court. Consequently, the matter is listed before the Court.



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9. A contempt proceeding cannot be a substitute for execution proceedings and moreover, contempt proceedings should not be allowed to be used as a lever by the litigants for bringing pressure on the State functionaries in getting the decree or orders executed without taking recourse to remedies available under the Act itself. The said principle was decided by the Allahabad High Court in the case of *Om Prakash v. Secretary, Home Department, UP 1987 (30) ACR 799*.

10. The facts pleaded between the parties would amplify that civil disputes exist and several orders are passed. The petitioner Bank is armed with an order of attachment of the properties. Under these circumstances, the petitioner Bank is at liberty to initiate all appropriate actions to redress their grievance in the manner known to law. We do not find any serious allegations of interference into the administration of justice or otherwise, as contemplated under Section 15 of the Contempt of Courts Act with reference to the definition enumerated under Section 2(c) of the Act. Thus, the contempt petition is not entertainable and stands dismissed.



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Consequently, Sub Application Nos.540, 673, 674, 675, 678, 679, 680 of 2022 & 32 of 2024 are also dismissed.

Index : yes

(S.M.S.,J.)

(V.S.G.,J.)

Neutral citation : yes

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S.M.SUBRAMANIAM,J.

AND

V.SIVAGNANAM,J.

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