



2024 : DHC : 2740



\$~82

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

+ **CONT.CAS(C) 51/2024**

SH.AAKASH SHARMA

..... Petitioner

Through: Mr. C. Mohan Rao, Sr.
Advocate with Mr. Lokesh Kumar Sharma,
Adv.

versus

SH. GYANESH BHARTI & ORS.

..... Respondents

Through: Mr. Aajjay Arora, Sr.
Advocate/Standing Counsel with Ms.
Simiran Arora and Ms. Sakshi Shairwal,
ASC with Mr. Anil Kumar, for MCD

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER (ORAL)

03.04.2024

%

CONT.CAS(C) 51/2024

1. By this petition, the petitioner alleges contempt, by the respondents/alleged contemnors, of order dated 28 July 2023, passed by a coordinate Bench of this Court in RSA 136/2023, specifically of paras 14 and 15 thereof, which read thus:

“14. In view of the undertaking given by the Appellants before this Court today to the effect that (i) they will proceed with the hearing of the appeal before ATMCD, (ii) not seek any adjournment, and (iii) have further prayed for an expeditious disposal of the said appeal; the directions of the Trial court dated 16.07.2019 directing MCD to demolish the unauthorized construction in the suit property is stayed until the next date of hearing.



2024 : DHC : 2740



15. The Appellants and Respondent no. 3 i.e., MCD are only party before the ATMCD and in view of the consent given by both the parties today for the expeditious disposal of the appeal, the ATMCD is requested to take up the appeal for hearing listed before it on 23.08.2023 and dispose of the same preferably within a period of two (2) months.”

2. The alleged contempt, as explained by Mr. C. Mohan Rao, learned Senior Counsel for the petitioner, is that the MCD proceeded to demolish the petitioner’s property despite the injunction to that effect in para 14 of the order dated 28 July 2023 *supra*.

3. The directions in para 14 of the order dated 28 July 2023 clearly envisaged fulfilment of reciprocal obligations. The obligation of the MCD not to demolish the petitioner’s property was conditional on fulfilment, by the petitioner, of the obligation not to take adjournment on 23 August 2023 when the matter was next listed before the ATMCD. There is no dispute about the fact that, on 23 August 2023, the petitioner was unable to enter appearance and that, therefore, the matter had to be adjourned.

4. With that perishes the allegation of contempt.

5. By taking an adjournment on 23 August 2023, the petitioner failed to fulfil his side of the bargain as envisaged by para 14 of the order dated 28 July 2023. The Court is not commenting how wholesome or otherwise the act of the MCD to proceed to demolish the petitioner’s property was. It does not, however, amount to contempt in view of the adjournment taken by the petitioner from the ATMCD on 23 August 2023.



2024:DHC:2740



6. This contempt petition is, therefore, dismissed.

CM APPL. 1987/2024

7. This application does not survive for consideration and stands disposed of.

C.HARI SHANKAR, J

APRIL 3, 2024

rb

Click here to check corrigendum, if any