



\$~6

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

+ **CONT.CAS(C) 465/2024**

SMT. KRISHNA & ORS.

.....Petitioners

Through: Mr. A. K. Thakur, Mr. R. K. Mishra,
Mr. Sujeet Kumar and Mr. Puneet
Saini, Advs.

versus

ANIL KUMAR SABHERWAL

.....Respondent

Through: Mr. Shekhar Prit Jha, Ms. Tamanna
Swami, Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

%

06.11.2024

1. In the instant contempt petition, the alleged disobedience pertains to the directions passed *vide* order dated 04.04.2008 in RFA 151/2008. As per the said order, it is seen that the Court has directed for *status quo* to be maintained with respect to the suit property.
2. Admittedly, the alleged contemnor, Mr. Anil Kumar Sabherwal is not a party to the *lis* in RFA 151/2008. As per the submissions advanced, it is seen that the appellant in RFA 151/2008, one Mr. Siri Chand, sought to execute a sale deed dated 12.03.2008, despite the order dated 04.04.2008 directed for *status quo*. It is also seen that the appellant Mr. Siri Chand has passed away.
3. According to learned counsel, since the appellant in RFA 151/2008 has passed away, certain liberty has been granted to the petitioner herein to



initiate proceedings against the present proposed contemnor.

4. While it is a settled position of law that contempt proceedings are not only confined to the parties to a *lis*, in ***Indra Pasricha v. Deepika Chauhan***² while relying on the decision of the Supreme Court in the case of ***Firm Ganpat Ram Rajkumar v. Kalu Ram***³, this Court has held that there is an onus on the individual alleging violation of a direction passed by the Court to establish that the non-party was aware of the directions passed and if it is seen that despite specific knowledge, the directions are violated, only then contempt proceedings can be drawn against a non-party. The relevant portion of the said decision reads as under:-

“11. The Supreme Court in Firm Ganpat Ram Rajkumar v. Kalu Ram [Firm Ganpat Ram Rajkumar v. Kalu Ram, 1989 Supp (2) SCC 418] , has observed as under:

“5. In the aforesaid view of the matter, the question that requires consideration is how will this order of eviction passed by the High Court and confirmed by this Court by dismissing the special leave petition on the terms mentioned hereinbefore on 24-8-1987 is to be enforced or implemented? In our opinion, the said order must be implemented and cannot be allowed to be defeated by the dubious methods adopted by the partners of the said firm of Ganpat Ram Rajkumar. The whole conduct betrays a calculated attempt to defeat the order of this Court and to mislead this Court. If that is the position, in our opinion, parties cannot be allowed to do so and get away by misleading this Court. This application was made for contempt. It may or may not be appropriate to pass any order punishing the wrongdoers. But there is no doubt that the order of this Court dated 24-8-1987 is being sought to be defeated and frustrated. Sons and grandsons of the partners or erstwhile partners of the firm cannot be allowed to frustrate the order of this Court.”

(emphasis supplied)

12. This Court in Krishna Gupta v. Narendra Nath [Krishna Gupta v.

² 2022 SCC OnLine Del 1090

³ 1989 Supp (2) SCC 418



Sh. Narendra Nath, 2017 SCC OnLine Del 10990] , has observed as under:

“40. For taking action of contempt against a person who may not necessarily be impleaded in the suit, but has notice of an order, there must be sufficient material-on-record that can demonstrate that he is guilty of violating the injunction order or abetting/aiding such violation. At the same time, a party against whom allegations of violation of an injunction order are levelled, is entitled to prove his innocence by demonstrating that the order passed was not to his knowledge or that the order was ambiguous and reasonably capable of more than one interpretation or that he did not have the intention to disobey the said order, but had conducted himself in accordance with his own bona fide interpretation of the said order. The view taken above finds resonance in Ram Chand Verma v. DDA [Ram Chand Verma v. DDA, 1997 SCC OnLine Del 422] , Komal Nagpal v. Kamal Nagpal [Komal Nagpal v. Kamal Nagpal, 2014 SCC OnLine Del 46] and Bundu v. Shah Alam [Bundu v. Shah Alam, 2015 SCC OnLine Del 7834] , relied on by learned counsel for Respondent 2. In Mohd. Sharfuddin v. Mohd. Jamal [Mohd. Sharfuddin v. Mohd. Jamal, 2003 SCC OnLine AP 184] relied on by both sides, a Division Bench of the Andhra Pradesh High Court had opined as follows:

‘22. As can be seen from the aforesaid decisions, injunction is a remedy “in personam” and not in rem. But at the same time, it is also cannot be disputed that a person who aids and abets and violates the order of the court is also liable for contempt of the court.

23. The prime question is whether the persons who are not parties to the proceedings when the order was passed can be made liable for the violation of the orders of the court. It is beyond the pale of controversy that the order binds the parties till such time they are in subsistence and they are liable for consequences for violation of the orders. It is also basic principle that the person who is not a party to the proceedings cannot be proceeded with against them for the violation of the order, but yet the third party cannot be said to absolve himself of this situation in certain circumstances. This issue came up for consideration in English Court more than a century ago and it was held that the disobedience of the order by a person who is not a party to the proceedings held to amount to contempt as it interfere with the administration of justice. In Seaward v. Paterson [Seaward v.



Paterson, (1897) 1 Ch 545] , it was held that the court has jurisdiction to commit for contempt, a person not a party to the action, who knowing of an injunction, aids and abets the injunction in breaching it. This principle was again reiterated in Acrow (Automation) Ltd. v. Rex Chainbelt Inc. [Acrow (Automation) Ltd. v. Rex Chainbelt Inc., (1971) 1 WLR 1676 : (1971) 3 All ER 1175] ’”

(emphasis supplied)

13. It is, therefore, well settled that though broadly a person who is not a party to the proceedings cannot be proceeded against for violation of the order, but a third party cannot seek to absolve themselves if they are informed about the fact that their conduct amounts to a violation of the court order and that despite the information, they choose to wilfully flout the mandate of the court. If such a conduct is permitted, then it will encourage subversion of judicial orders, which are to be properly understood and complied with. Disobedience of an order of the court, if permitted, will result in striking at the root of the rule of law on which our system of governance is based. Power to punish for contempt is necessary for the maintenance of an effective legal system and the Contempt of Courts Act, 1971 has been primarily legislated to prevent interference in the course of administration of justice.

14. In the present case, assuming that Respondent 1 was initially not aware about the consent decree, it is pertinent to note that the moment she was informed about the undertaking given by R.N. Kapur, through whom Respondent 1 derives title, she ought to have respected the undertaking given to the court and should not have persistently breached the same. This Court is of the opinion that obstinate and wilful act on the part of the respondent not to disobey the consent decree amounts to civil contempt under Section 2(b) of the Contempt of Courts, 1971 Act.”

5. Upon consideration of the facts, the Court is of the considered opinion that when Mr. Anil Kumar Sabherwal was not the party to the main appeal wherein the order was passed and there is nothing on record to indicate that the proposed contemnor was aware of the proceedings and the order dated 04.04.2008 directing *status quo*, the proceedings for contempt of Court cannot be initiated against Mr. Anil Kumar Sabherwal.



6. With respect to the claim as to whether the Sale Deed should not have been executed after passing of the order dated 04.04.2008, is concerned, all those aspects can be looked into in the main proceedings, including the consequence of execution of such Sale Deed.
7. That liberty stands reserved in favour of the applicant.
8. With the aforesaid observations, at present, the contempt proceedings stands stopped.

PURUSHAINDRA KUMAR KAURAV, J

NOVEMBER 6, 2024/p