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

% **Date of decision: 25th July, 2024**

+ **CONT.CAS(C) 1143/2024**

MGB FINLEASE PVT LTD

.....Petitioner

Through: **Mr.Jugal Wadhwa, Mr.Raghav Goyal and Mr.Siddharth Sharma, Advocates.**

versus

KANWALJEET SINGH

.....Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 41811/2024 – EXMP

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioner, which is Non-Banking Financial Company [“NBFC”] is seeking initiation of contempt proceedings against the respondent/Judgment Debtor, and is invoking Section 2(b) read with Section 10 and 12 of the Contempt of Courts Act, 1971 [“CC Act”] for the repeated wilful disobedience of the processes of the Court pursuant to judgment-decree dated 28.11.2022 passed in its favour by the learned Commercial Civil Judge (West), Tis Hazari Courts, Delhi [“Trial Court”].
4. No one is present for the respondent despite sending advance notice.



5. In a nutshell, a suit was filed by the petitioner against the respondent for the recovery of Rs. 2,00,000/- with interest from the respondent under Order XXXVII of the Code of Civil Procedure, 1908 [“CPC”]. The said suit eventually resulted in a judgment and decree in favour of the petitioner, dated 28.11.2022.

6. Learned counsel for the petitioner has urged that although an execution application has been filed, the respondent has been flouting the processes of the Court inasmuch as report of the Bailiff dated 03.10.2023, would show that when he visited the place of the respondent, he handed over a cheque dated 03.10.2023 drawn on Bank of Baroda, Subhash Nagar Branch, Delhi towards the decretal amount, but the said cheque was also dishonoured on presentation and he had the audacity to file frivolous objections so as to delay the execution of the decree.

7. Learned counsel for the petitioner while alluding to Section 2(b) of the CC Act also urged that the learned Executing Court has not been passing any appropriate directions and the respondent is taking the entire justice system for a ride.

8. I am afraid although the present contempt proceedings are maintainable, this Court must refuse to exercise its contempt jurisdiction. Not every order, judgment, or decree passed by the Court and subsequently flouted can be made the subject of contempt proceedings. It is well ordained in law that contempt proceedings should be invoked sparingly and only in exceptional cases that exhibit unconscionable conduct on the part of the erring party.

9. Reference can be invited to a decision in the case of **Rama**



Narang v. Ramesh Narang¹, wherein a consent decree had been passed between the parties in terms of Order XXIII Rule 3 of the CPC, in which matter, an undertaking was given by the judgment debtor to comply with certain directions, which were evidently flouted thereafter. The Supreme Court held that a violation or breach of an undertaking given to the Court becomes part of the decree of the Court and certainly amounts to contempt of Court irrespective of the fact that it is open to the decree holder to execute the decree. However, it was also held that much would depend on the facts and circumstances of the case or the contextual background in which the Court may or may not decide to exercise contempt jurisdiction. It was reiterated that normally, the parties should resort for execution of decree or implementation of an order, which is the effective alternate remedy in law.

10. This Court may also invite reference to a decision in the case of **R.N. Dey v. Bhagyabati Pramanik**², wherein a petition was filed under the Contempt of Courts Act, 1971 for non-payment of the amount awarded consequent to acquisition of land and it was held as under :

“7.....the weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the Court is to be exercised for maintenance of Courts dignity and majesty of law. ...”

11. It was further held that:

“8. ...the decree-holder, who does not take steps to execute the decree

¹ (2006) 11 SCC 114

² (2000) 4 SCC 400



in accordance with the procedure prescribed by law, should not be encouraged to invoke contempt jurisdiction of the court for non-satisfaction of the money decree.”

12. Avoiding a long academic discussion, we may refer to another decision in **Soorajmull Nagarmull v. Brijesh Mehrotra**³, wherein the proceedings arose out of the Land Acquisition Act, 1894 the Supreme Court observed that since the Land Acquisition Act, 1894 is a complete code in itself and lays down detailed procedure for acquisition of land, payment of compensation based on common law, principles of justice and equity in good conscious, the parties should resort to seeking remedy under the same instead of enlarging the scope of the directions by brining contempt petitions.

13. In view of the above discussion, the present contempt petition is disposed of with liberty to the petitioner to pursue its remedies before the learned Trial Court/Executing Court and the learned Trial Court/Executing Court is impressed upon to take appropriate measures so as to ensure the compliance of its orders in accordance with law.

14. The present petition stands disposed of accordingly.

DHARMESH SHARMA, J.

JULY 25, 2024

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³ 2021 SCC Online SC 1252