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

+ **CONT.CAS(C) 1515/2024**

PAWAN CHOTIA

.....Petitioner

Through: Mr. Varun Jain, Dr. M K
Gahlaut & Mr. H I Gahlaut,
Advs.

versus

MANISHA LOCHAN AND ORS

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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23.09.2024

CM APPL. 55753/2024 (Ex.)

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

CONT.CAS(C) 1515/2024

3. The petitioner is seeking initiation of contempt proceedings against the respondents for the wilful disobedience of the judgment and decree dated 06.11.2023, passed by the learned ADJ, Commercial Court, Central District, Tis Hazari Courts, Delhi in Commercial Civil Suit No. 5397/2021.
4. None appeared on behalf of the respondents despite sending advance notice.
5. Shorn off unnecessary details, the petitioner instituted a civil suit for recovery of Rs. 35,66,067.96 paise against the respondents and on 16.11.2023, respondent No. 2 appeared on behalf of himself and



other respondents and voluntarily settled the matter with the petitioner, thereby agreeing to pay a sum of Rs. 26,50,000/- towards full and final satisfaction of the claim of the petitioner, payable in six monthly equal instalments of Rs. 4,41,666/- through NEFT/RTGS in the account of petitioner's firm. It was further agreed that in case any default is made, the respondents shall make payment with additional interest @10% per annum. Based on the same, the decree sheet dated 16.11.2023 was prepared.

6. It is the case of the petitioner that the respondents did not adhere to aforesaid undertaking and have made payment of total amount of Rs. 18,53,630/- on 28 different dates making payment by instalments in different amounts, which payments are depicted in the statement of accounts forming Annexure P-2 to the present contempt petition.

7. First thing first, although the respondents have not complied with the undertaking as given by respondent No. 2, evidently, the payments have been received on 28 different occasions, which deviation from the stipulated payments have been apparently accepted and acquiesced by the petitioner without any demur or protest.

8. Hence, it is difficult to discern that there has been any wilful or contumacious disobedience on the part of the respondents in complying with the undertaking given to the Court resulting in Decree dated 16.11.2023. It is well settled that contempt jurisdiction should only be invoked sparingly and in exceptional cases.

9. In view of the above, the decree passed by the learned Trial Court is an executable a decree and the petitioner is at liberty to approach the learned Trial Court/Executing Court for execution of the decree in accordance with the law.



10. Accordingly, the present contempt petition is dismissed without prejudice.

DHARMESH SHARMA, J

SEPTEMBER 23, 2024

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