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

% ***Date of decision: 26th July, 2024***

+ **FAO 333/2018 & CM APPL. 28455/2018**

JATINDER PAL SINGH LAMBA

.....Appellant

Through: **Ms. Gurmeet Bindra, Advocate**
(Through VC)

versus

HARVESH KAUR & ORS

.....Respondent

Through: **Mr. Pragyan Pradip Sharma,**
Rudreshwar Singh and Ms. Isha
Singh, Advocates for Respondent
No.1

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Present appeal has been filed under Order XLIII Rule 1 CPC.
2. It originates from order dated 22.05.2018 passed by learned Addl. District Judge (Central), Tis Hazari Courts, Delhi whereby the quantum of punishment of the contemnor (respondent No.1 herein) has been adjudicated.
3. The suit in question was earlier pending in this Court on its Original Side.
4. It was a suit for partition of suit property i.e. H. No. XI/2158, M.P. Street, Darya Ganj, Delhi filed by appellant herein in the year 1994.



5. When the matter was pending in this Court, order dated 04.07.2008 was passed vide which the Court ordered all the parties to the suit to maintain status quo in respect of all moveable and immoveable assets of the deceased Smt. Udham Kaur.

6. As it transpired, defendant no.4 Smt. Harvesh Kaur (respondent No.1/contemnor) illegally operated a joint bank account which was in her name and deceased Smt. Udham Kaur.

7. Thereby, she contravened the order of the Court dated 04/07/2008 and invited contempt proceedings.

8. During proceedings of said suit i.e. CS (OS) No. 646/1994, this Court dealt with application moved under Order XXXIX Rule 2A CPC and held respondent no. 1 guilty of contempt of court.

9. The matter was, thereafter, fixed for ascertaining the punishment to be imposed upon her.

10. In the meanwhile, on account of change in the pecuniary jurisdiction, the suit got transferred to District Courts and the matter was taken up by the learned Trial Court on 22.05.2018. Learned Trial Court observed that in context of contempt in question, defendant no. 1 Jatinder Pal Singh Lamba (appellant herein) was the 'sole aggrieved party' for receiving compensation.

11. It needs to be emphasized that during the time when the suit remained pending before learned Trial Court, Tis Hazari, said suit property was eventually purchased by appellant herein for Rs. 1.50 crore with the consent



of other parties and since there were nine shareholders, each shareholder was to get Rs. 16,16,666/- i.e. 1/9th share each.

12. A demand draft of Rs. 16,16,666/- in the name of the contemnor was not disbursed to her in view of the fact that contempt proceedings have been initiated against her. It is stated that the others have already got their respective share out of said sale proceeds.

13. While deciding the quantum of the punishment in relation to contempt, since the appellant was pursuing the matter before the learned Trial Court and since he had been declared as sole aggrieved party, entitled to compensation, he was given a sum of Rs. 2,85,185/-. It comprised of 1/9th of said amount of Rs. 16,16,666 and also an additional amount of Rs. 1 lac. Since no other party had prayed for any kind of compensation, balance amount, out of the aforesaid Rs. 16,16,666/- which otherwise belonged to contemnor only as her share in the sale proceeds, was directed to be returned to her.

14. Thus, for all practical purposes, the penalty imposed upon contemnor was of Rs. 2,85,185/-.

15. It will be worthwhile to extract the Paras 12, 13 & 14 of the impugned order:-

12. It is difficult to quantify exactly or to a close estimate the monetary injury caused to applicant Sh. Jatinder Pal Singh Lamba due to wrongful action of the contemnor. However, demands of equity and justice to be satisfied if the applicant is compensated with 1/9th share out of the share payable to the contemnor by applicant/defendant no. 1 Jatinder Pal Singh



Lamba towards purchase of property bearing H. No. XI/2158, M.P. Street, Darya Ganj, Delhi. In addition, the applicant / defendant no. 1 must be compensated for the delay in grant of compensation, for which, additional compensation of Rs. 1.00 lakh should suffice.

13. Thus, total compensation of Rs.2,85,185/- (1/9th of Rs.16,16,666/- + Rs.1.00 lakh) is awarded to applicant/ defendant no. 1 Sh. Jatinder Pal Singh out of the demand draft amount of Rs. 16,16,666/-, originally payable to the contemnor Smt. Harvesh Kaur @ Harvashi Malik. This amount would also be considered as the appropriate punishment to the contemnor. The remaining amount, out of the demand draft, shall go back to the contemnor as no other party to the suit has filed an application for compensation or has alleged causation of injury to him / her due to wrongful action of the contemnor.

14. At this stage, Sh. Mohinder Singh Malik, AR for contemnor Smt. Harvesh Kaur @ Harvashi Malik states that he will pay the awarded compensation amount to applicant Sh. Jatinder Pal Singh Lamba and, in lieu thereof, will obtain the demand draft available, on record, in the amount of Rs. 16,16,666/-, on behalf of the contemnor.

16. The prayer in the appeal is to enhance the compensation and to make provision for compensation to other legal heirs as well. The grouse of the appellant is also to the effect that the learned Trial Court should not have directed refund of the balance amount to the contemnor.

17. Order XXXIX Rule 2A CPC provides that in case of disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached and may also order such



person to be detained in the civil prison for a term not exceeding three months. It also provides that the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto.

18. Thus, basically, the Order is not a punitive in nature and, simply put, a measure for ensuring compliance of orders of a civil court with some trappings of punitive measures. The prime objective is to ensure compliance and in the given facts, the court may also curtail the personal liberty of alleged contemnor, albeit, it should be resorted sparingly.

19. In the case in hand, the amount receivable by the contemnor was attached and part thereof has been paid to appellant as compensation.

20. It needs to be seen whether the others legal heirs could also be said to be aggrieved, thereby entitled to receive any compensation.

21. Such other legal heirs were made party herein and notice of the appeal was sent to them.

22. Pursuant to such notice issued to the other respondents, affidavits have been filed by i) respondent no. 3 Mr. Kawalinder Singh Lamba, ii) respondent no. 6 Mrs. Satinder Chhatwal, iii) respondent no. 7 Mrs. Balinder Kaur and iv) respondent no. 8 Mrs. Jagmohini Kaur claiming therein that they may be given compensation.

23. The remaining three respondents did not put in appearance.

24. Admittedly, the above lying amount of Rs. 16,16,666/- belonged to



contemnor i.e. respondent no. 1 herein her such share was forfeited and was not disbursed to her.

25. Since pursuant to the notice issued by this Court, four other shareholders i.e. respondent nos. 3, 6, 7 & 8 have expressed their willingness to seek compensation and this court feels that, being similarly situated, they are also entitled to receive compensation and, it will be in fitness of things if they are also given share in the same proportion i.e. 1/9th share. Moreover, keeping in mind the nature and age of the case and the fact that they all members of one family, there is no requirement of any further modification either.

26. Such amount, after rounding off, comes to Rs. 1,80,000/-.

27. Learned counsel for the appellant has no objection if the present appeal is disposed while directing as above and if the balance is refunded to contemnor.

28. Learned counsel for the respondent no. 1 also states that he also wants to put a quietus to the entire matter and would have no objection if those shareholders who have now come forward and have already filed their affidavits before this Court are given said amount.

29. Accordingly, present appeal is disposed of with the following directions: -

- i) *Out of the total principal amount of Rs. 16,16,666/- lying before learned Trial Court, the appellant be paid a sum of Rs. 2,85,185/-.*
- ii) *Respondent nos. 3, 6, 7 & 8 herein be paid Rs. 1,80,000/- each*



from said amount.

iii) Needless to say, they all i.e. appellant herein, respondent no. 3, 6, 7 & 8 would also be entitled to the interest in the same proportion, if accrued, in the interregnum.

iv) If there is no accrual of interest, the above persons would be entitled to the above said principal amount only.

v) Since other three shareholders i.e. respondent nos. 2, 4 & 5 have not chosen to participate in the present proceedings so far, they are held not entitled to any compensation. Hence, any subsequent request coming from them shall not be entertainable.

vi) Rest of the amount, with interest if any, would go back to the contemnor as per the order passed by learned Trial Court.

30. Learned counsel for appellant also states that if for any reason whatsoever, the bank draft is not revalidated and is required to be revalidated for the purpose of aforesaid disbursement, she would render due assistance and would do the needful after taking requisite instructions from the learned Trial Court.

31. Appeal stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 26, 2024/dr