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IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
APPELLATE SIDE

CPAN 1277 of 2025
in
WPA 4810 of 2023

Averill Infrastructure Private Limited & Anr.
-Vs-
K. Rupeshor Singh

Mr. Shyamal Sarkar, Sr. Adv.,
Mr. Kumar Gupta,
Mr. Sourojit Dasgupta,
Mr. Abhishek Jain,
Mr. Piyush Jain
.... for the petitioners/applicants.

Ms. Aparna Banerjee
....for the alleged contemnor.

This contempt application arises out of an order dated 28th March, 2024 passed in CAN 1 of 2023 and CAN 2 of 2024 filed in WPA 4810 of 2023.

The facts of the case have been clearly set out in the order dated 28th March, 2024. On a perusal of the said order it is apparent that Weaverly Jute Mills Private Limited (in short, "Weaverly") was closed down on and from 28th November, 2020. The petitioner, Averill Infrastructure Private Limited (in short, "Averill") purchased some of the assets of Weaverly and started operating the jute mill with effect from 11th December, 2022.

A dispute arose as to the contribution for provident fund in respect of the period prior to Averill started operating the Jute Mill.

The Employees' Provident Fund Organization (in short, "EPFO") contended that Averill being the entity now operating the jute mill jointly and/or severally is liable for the defaults which have taken place prior to 11th December, 2022. This gave rise to an issue whether Averill should be held to be a transferee for the purpose of being obligated to pay the amount in default prior to 11th December, 2022. This is the main issue which is pending in the writ petition being WPA 4810 of 2023.

It is the case of Averill that though such issue is pending for final adjudication in the writ petition, the EPFO has held Averill to be the "transferee" and have directed Averill to pay the defaulted amount of Rs.4,87,00,743/- for the periods 05/2017 to 11/2019 which is admittedly in respect of a period prior to Averill started operating the jute mill. It is the further case of Averill that the EPFO authorities have exceeded their jurisdiction to hold Averill as the "transferee" when such issue is pending before this Court as the main issue in WPA 4810 of 2023.

It is further submitted by Averill that a *quasi judicial* authority which is admittedly under the supervision of the jurisdictional High Court cannot proceed to decide a issue which is specifically pending in a writ petition before the jurisdictional High Court. This act of EPFO is one which overreaches the orders of this Court.

The writ petitioners say that, be that as it may, the writ petitioners are not inclined to go in direct confrontation with the EPFO at this stage when the final decision as to whether the writ petitioner no.1 is the "transferee" or not is pending though there has been an overt act on the part of EPFO to overreach the orders of the High Court during the pendency of the writ petition. The petitioners say that EPFO allows payment of any alleged defaulted amount in installments.

The petitioners, therefor, without prejudice to their rights and contention in the writ petition as also in this contempt application intend to pay the said sum of Rs.4,87,00,743/- by way of 72 installments.

On behalf of EPFO, it is submitted that there is no violation of the order dated 28th March, 2024. There is no embargo on EPFO in proceeding under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 for realizing the defaulted amount. EPFO, however, does not dispute payment of the alleged defaulted amount through installment and on the contrary says that there are circulars to that effect. EPFO, however, objects to number of installments prayed for by the petitioners.

After hearing the parties and considering the materials on record, it appears that there is substance in the contention of the writ petitioners to the extent whether the petitioner no.1 can be held to be a “transferee” at this stage when the said issue is pending adjudication in the writ petition thereby saddling it with the dues for the period between 05/2017 and 11/2019 when the petitioners were not in picture with regard to Weaverly.

Admittedly, the issue as to whether the petitioner no.1 is a “transferee” is pending in the writ petition. In the event the petitioners succeed, then the petitioner no.1 cannot be held jointly and/or severally liable for the period when the petitioner no.1 did not start operation of the Jute Mill.

Without going into the dispute as to whether there has been a contempt or not as the issue is pending the writ petition, I think that the money which the writ petitioners have volunteered to deposit in installment without prejudice to their rights in the writ petition should be permitted to be deposited as the same relates to a fund through which social security and its benefits are being given to the employees and staff of the concerned Jute Mill.

It is an admitted position that the writ petitioners are regularly paying the current liability since they had started operating the Jute Mill and there has been no default in respect of the same. The sum of Rs.4,87,00,743/- is not a paltry sum and as such to meet the same in monthly installment along with the current payment may overburden the petitioners.

In the aforesaid facts and circumstances, I find justice will be sub-served if the petitioner no.1 is permitted to deposit the said sum of Rs.4,87,00,743/- in 72 monthly installments starting from 14th August, 2025 and the succeeding installments be paid by 10th of each successive month by month till the entire sum of Rs.4,87,00,743/- is liquidated out of the 72 installments, 71 installments will be of equal amount while the last installment will be for the balance sum.

The payment shall be, however, made without prejudice to the rights and contention of the writ petitioners and subject to the final result in the writ petition. The payment of the amount by the petitioners shall not be construed. As the petitioners to be defaulter or that they are liable as transferee under the provisions of Section 7A of the 1952 Act.

The interest component, if any, on Rs.4,87,00,743/- shall be realizable from the petitioners only if the petitioner no.1 is held to be a “transferee” in the writ petition.

Needless to mention that the petitioners along with the installments to liquidate the said sum of Rs.4,87,00,743/- shall continue to pay the current liability month by month as required under the statute. In default of 3 successive installments, it will be open to EPFO to take appropriate steps as will be available in law. The order impugned shall not be enforced if the petitioner continues to pay the installments.

Nothing further remains to be adjudicated in this contempt application. The same is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(**Arindam Mukherjee, J**.)