

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Special Civil Jurisdiction (Contempt)
ORIGINAL SIDE

CC/55/2024

AWAM MARKETING LLP AND ORS.
VS
GANESH SINGHANIA AND ANR.

AND

CS/176/2017
IA NO: GA/1/2017 (Old No: GA/2716/2017), GA/7/2024, GA/8/2024,
GA/9/2024 IA NO: GA/1/2017 (Old No: GA/2716/2017), GA/7/2024,
GA/8/2024, GA/9/2024

AWAM MARKETING LLP AND ORS.
VS
SQUARE FOUR ASSETS MANAGEMENT AND RECONSTRUCTION
COMPANY PRIVATE LIMITED & ORS.

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date: March 20, 2025.

Appearance:
Mr. Mainak Bose, Sr. Adv.
Mr. Souvik Majumdar, Adv.
Mr. Rishabh Karnani, Adv.
Ms. Tiana Bhattacharya, Adv.
Ms. Shreya Ghosh Dostidar, Adv.
... for the petitioners

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Rajarshi Dutta, Adv.
Mr. Kaushik Banerjee, Adv.
Ms. Sudipta Paul, Adv.
...for the contemnors

1. Mr. Mainak Bose, learned Senior Advocate, is appearing for the
petitioners.

2. Mr. Bikash Ranjan Bhattacharyya, learned Senior Advocate, is
appearing for the alleged contemnors.

3. The contemnors have filed the present application on the allegation that the alleged contemnors have violated the order passed by this Court dated 22nd January, 2024 wherein this Court has directed the Special Officer to do the following works for the purpose of maintaining the suit property:-

- a. Shall inspect the subject suit property twice in a month and to make sure that all lifts, passages, drains, electricity supply and the entire property is properly maintained.
- b. If any complaint is received from any of the occupier of the property, he shall attend the complaint and to resolve the same.
- c. Expenditure if any incurred for the maintenance of the property shall be informed to the occupiers of the subject property and the occupiers shall pay the expenditure to the Special Officer within a week from the date of the information.
- d. Shall conduct meetings with the occupiers once in two months prior intimation to the occupiers.
- e. Shall share mail id, whatsapp number and mobile number with the occupiers.
- f. The plaintiffs, defendants and occupiers shall pay the maintenance charges to the Special Officer regularly without any delay.

4. Counsel for the petitioner has drawn the attention of this Court to the Minutes of the Meeting recorded by the Special Officer dated 29th April, 2024 wherein it is recorded that:

- a. Mr. Praveen Kanodia submitted that the information/data sought by the Special Officer shall be provided/handed over to the association only

when the association has been formed. He therefore, expressed his inability to do so before that.

- b. Mr. Kaushik Banerjee, on instructions from his client, reiterated that the details as sought for by the Special Officer shall be provided to the association as soon as the association is formed. He further submitted that the order dated 22nd January, 2024 was premised on the position that the association could not be formed by the parties but now that his client has expressed its willingness to do so, the maintenance charges would be paid to the said association as and when formed wherefrom the maintenance expenses shall also be carried out. In that view of the matter he submitted, that his instructions are that there is no need to deposit the maintenance charges with the Special Officer and that the other parties should revert on the draft of the Memorandum of Association prepared and circulated by his client, as soon as possible, so that the association can be formed at the earliest.
- c. As such, he has submitted on instructions, that since the Dispute for formation of the association has been settled, his client has objection to make payment/deposit of the maintenance charges into the nominated bank account of the Special Officer at present and that the association as and when formed, may function under the Special Officer.
- d. Mr. Kaushik Banerjee has notwithstanding the above, however requested representatives of Square Four to provide as much details/information as they can as sought by the Special Officer.

5. The Counsel for the petitioners submits that this Court has specifically directed the parties that expenditures, if any, incurred for the maintenance of the property shall be informed to the occupiers of the subject property and the occupier shall pay expenditures to the Special Officer within a week from the date of the information.

6. The Counsel for the petitioners has also submitted that in terms of the order passed by this Court dated 22nd January, 2024, the plaintiffs, defendants and the occupiers shall pay the maintenance charges to the Special Officer regularly without any delay. But, in spite of the specific order passed by this Court, the alleged contemnors have stated before the Special Officer that since the dispute for formation of the association has been settled, their clients have objected to make payment/deposit of the monthly maintenance charges into the nominated Bank Account of the Special Officer at present. Counsel for the petitioners submits that this submission made by the alleged contemnors before the Special Officer is a willful and deliberate violation of the order passed by this Court dated 22nd January, 2024. Learned Counsel for the petitioners has relied upon the judgment in the case of **Subrata Roy Sahara Vs. Union of India and Ors.** reported in **2014 8 SCC 470** wherein the Hon'ble Supreme Court has held that:-

“Disobedience of orders of a court strikes at the very root of the rule of law on which the judicial system rests. Judicial orders are bound to be obeyed at all costs. Howsoever grave the effect may be, is no answer for non-compliance with a judicial order. Judicial Orders cannot be permitted to be circumvented. In exercise of the contempt jurisdiction, courts have the power to enforce compliance with Judicial orders, and also, the power to punish for contempt.”

7. Counsel for the petitioners submits that from the face of the records and Minutes of the Meeting, it is clear that the alleged contemnors

have willfully and deliberately violated the order passed by this Court and the contemnors may be dealt in accordance with law.

8. Per contra, Mr. Bikash Ranjan Bhattacharyya, learned Senior Advocate appearing for the alleged contemnors submits that this is not a criminal contempt. This is alleged contempt is civil in nature. Counsel for the alleged contemnors submits that the submission made by the learned Advocate on behalf of the contemnors before the Special Officer in its meeting held on 28th February, 2024 is nothing, is an inappropriate submission. He submits that the learned Advocate could not have made the said submission.

9. Learned Counsel for the alleged Contemnors submits that though it is an inappropriate submission made before the Special Officer, but when this contempt application is filed before this Court and this Court has passed an order for personal appearance of the alleged contemnors, alleged contemnors have submitted before this Court that they will deposit the said amount. Accordingly, the amount is deposited before the Registrar of this Court. He submits that the alleged contemnors have already deposited the amount in terms of the order passed by this Court and are continuing paying the maintenance charges and other charges in terms of the order passed by this Court dated 22nd January, 2024 and thus only because of an inappropriate submission made before the Special Officer cannot be termed as a contempt. Learned Counsel for the alleged contemnors has relied upon Section 2(b) of the Contempt of Courts Act, 1971 which is read as follows:-

“ 2 (b) “civil contempt” means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court;

10. He submits that the allegation made by the petitioners in the present application is the nature of a civil contempt and as such once the alleged contemnors have realized that they have made an inappropriate submission and subsequently they have paid the said amount, this Court cannot be held that the alleged contemnors have willfully and deliberately violated the said order passed by this Court.

11. Mr. Bhattacharya in reply to the Judgment relied by petitioner submits that the said judgment passed in the Criminal case and the said judgment is not applicable in the present case. In the present case, it is not that the petitioners have willfully and deliberately violated the order. In the present case, only the petitioners are intending before the Learned Special Officer that an association is to be formed and due to which the said submission was made before the Special Officer that they are not in a position to pay the amount till the association is formed and still he is submitting that it is an inappropriate submission made before the Special Officer and the alleged contemnors are now regularly paying the charges before the Special Officer.

12. Considered the submissions made by the Learned Counsel for the respective parties.

13. This Court by an order dated 22nd January, 2024 has appointed a Special Officer. “As regard the point no. (c), the expenditure, if any, incurred for the maintenance of the property shall be informed to the

occupiers of the subject property and the occupiers shall pay the expenditure to the Special Officer within a week from the date of the information. As per clause (f) the plaintiffs, defendants and occupiers shall pay the maintenance charges to the Special Officer regularly without any delay". The dispute arose when the Special officer has conducted the meeting and has demanded for the maintenance charges. It is found from the record that the alleged contemnors claims that they have incurred an amount of Rs. 1,54,91,109/- for the purpose of maintenance and now they wanted that the said amount is to be adjusted. This Court by an order dated 22nd January, 2024 has categorically ordered that as regards the claim of the defendant no. 1 in respect of the amount of the Rs. 1,54,91,109/- being the maintenance charges from the plaintiff, the defendant no. 1 shall be at liberty to raise its claim before the Special Officer and if the said claim is received by the special Officer, the Special officer shall adjudicate the claim of the defendant no. 1 by giving an opportunity of hearing to the parties. This Court finds that the Special Officer has recorded in its minutes of meeting dated 29th of April, 2024 that the contemnors have raised objection for depositing the maintenance charges till the association is formed but it is not the direction passed by this Court. This Court has categorically directed the plaintiff, defendants and the occupiers of the property to pay the said maintenance amount to the Special Officer and this Court has categorically directed that with regard to the claim of the defendant no. 1 shall be raised before the Special Officer and the Special Officer will decide the same after giving an opportunity to the defendant no. 1.

14. This Court finds that the alleged contemnors were of the view that they have already incurred an amount of Rs. 1,54,91,109/- and as such they are not liable to pay the further amount to the Special Officer unless the claim of contemnors are decided. This Court finds that it is not an appropriate submission before the Special Officer, the alleged contemnors ought to have made the payment in terms of the order passed by this Court and they could not have made claim with respect of Rs. 1,54,91,109/- before the Special Officer. However, the alleged contemnors have paid the total amount before the Registrar and they are continuing paying the said maintenance amount to the Special Officer.

15. On the very first day when the contempt application filed by the petitioner moved before this Court on 1st August, 2024, the Learned Advocate who has made submission before the Special Officer on instructions of the alleged contemnors appeared before this Court and prayed for unconditional apology and this Court accepted the apology and directed the Learned Advocate not to repeat the same in future.

16. Considering the above, this Court finds that the Learned Advocate made submissions before the Special Officer on instructions from the contemnors. Before this Court, the learned Advocate prayed for apology and the alleged contemnors have also deposited the amount and continuously paying the same, thus this Court drop the contempt proceeding against the contemnors and the rules issued against the alleged contemnors are discharged.

17. Accordingly, CC/55/2024 is disposed of.

18. Let GA/8/2024 filed by the defendant be fixed on 9th April, 2025.

(KRISHNA RAO, J.)

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