

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

CC/104/2024

SOCIETE DES PRODUITS NESTLE S. A. AND ANR.
VS
SWAPAN KUMAR GHOSH, PARTNER ,M/S. KIT KAT
FOOD PRODUCTS AND ORS.

BEFORE:
The Hon'ble JUSTICE SUGATO MAJUMDAR
Date : 12th March, 2025.

Appearance:

Mr. Siddhartha Sharma, Adv.
Mr. Rishav Dutt, Adv.
Ms. Ayesha Iamn, Adv.
..for the petitioners.

The Court:- The learned Counsel for the decree-holder vehemently argues that there is deliberate flouting of the Judgment and Decree passed by this Court.

It is submitted that since there is deliberate flouting of the decree, the contempt of Court application is tenable by this Court.

Learned Counsel relies upon three Judges' Bench decision of the Supreme Court of India in ***Sudhir Vasudeva and Others Vs. M.George Ravishekar and Others [(2014) 3 SCC 373]*** wherein it is observed that the power given by the Contempt of Courts Act, 1971 is a drastic power which is to be exercised with the greatest care and caution. It is further warned by the Court that the Court must not travel beyond the four corners of the Order which is alleged to have been flouted or enter into questions that have not been dealt with or decided.

Learned Counsel also relies upon two Judges' Bench decision in ***Urban Infrastructure Real Estate Fund Vs. Dharmesh S. Jain and Another*** [(2022) 6 SCC 662] to submit that it is trite law that the jurisdiction of a Court under the Act, would not cease, merely because the order or decree of which contempt is alleged, is executable under law, even without having recourse to contempt proceedings.

In this case, it is observed that contempt jurisdiction would be invoked in every case where conduct of a contemnor is such, as would interfere with due course of justice. Contempt is a matter which is between the Court passing the Order of which contempt is alleged and the contemnor; questions as to executability of such Order, is a question which concerns the parties *inter se*.

In this case, Judgment was passed *ex parte*.

The judgment debtor was not present in the Court and it is not known whether he is, at all, aware of the passing of the decree or he has indulged himself in willful disobedience of the Judgment, although it is submitted that the notice of decree has been served.

There is specific provision in the Code of Civil Procedure on execution of decree of permanent injunction and the petitioner should take recourse to that.

It is not a fit case where contempt of court was made, shall be drawn up.

Accordingly, the application stands dismissed with liberty to draw up the execution proceeding.

(SUGATO MAJUMDAR, J.)