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Cont.P.No.1339 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

Contempt Petition No.1339 of 2024

Indicarb Employees Union,
Rep. by its General Secretary,
37, Santhi Nagar, 4th Cross,
Hosur - 635 109, Krishnagiri District.

...Petitioner

Vs.

- 1.Krishnappa Jagannathan,
Director, Indicarb Limited.,
No.3-257, Tank Street,
Near Venugopala Swamy Temple,
Hosur - 635 103.
- 2.Panneerselvam Thangasamy,
Director, Indicarb Limited.,
LIG-132, Old ASTC, Hudco,
Hosur - 635 109.
- 3.Mr.Ampavathina Veeramohan,
Director, Indicarb Limited.,
935/1-1, Sipcot Executive Housing Colony,
Near ESI Hospital, Sipcot - 1,
Hosur - 635 126.



4.M.Krishna Rao,
Director, Indicarb Limited.,
A41/12 TNHB Colony,
Bagalur Road,
Hosur - 635 109.

...Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 (Central Act 70 of 1971) seeking to punish the respondents herein for committing Contempt of Court by disobeying the order passed by this Court dated 13.08.2021 made in W.A.No.1616 of 2012.

For Petitioner : Mr.M.Sathyakumar

For Respondents : Mr.S.Ravi, Senior Counsel
for M/s.Gupta & Ravi

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

The petitioner alleges that the respondents are guilty of contempt for non-payment of monies which were directed to be paid under the award of the Industrial Tribunal, upon its confirmation by this Court in W.A.No.1616 of 2012.



The brief facts that led to the filing of this Contempt Petition are as follows:-

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2. The Union representing the workmen of Indicarb Limited raised an Industrial Dispute in I.D.No.27 of 2004 under Section 10(1)(d) of the Industrial Disputes Act, 1947. The Industrial Tribunal passed an award on 13.04.2007 granting an award recognising the rights of the Members of the petitioner Union to closure compensation only from the respondent Company. This was challenged in W.P.No.34626 of 2007. The writ Court by order dated 05.06.2012 set aside the award and directed the workmen to approach the Tribunal individually seeking appropriate compensation. This order of the writ Court was challenged by the Management in W.A.No.1616 of 2012. A Division Bench of this Court vide order dated 13.08.2021 restored the award of the Industrial Tribunal and four (4) weeks time was granted to the Company to pay closure compensation and gratuity with interest. In the interregnum the Company went into liquidation. Therefore, the Union has filed this instant Contempt Petition against the Directors of the Company.



3. We do not see any wilful disobedience of the order of this Court by the respondents, who are individual Directors of the Company. As a result of the award and its confirmation by this Court, there is an award passed by the Industrial Tribunal in favour of the workmen. It is open to the workmen to execute the award in the manner known to law. Non-payment of money under the decree or order of the Court cannot tantamount to contempt of Court, unless it is made by way of compensatory costs. The machinery for execution of the award of the Industrial Tribunal is provided for under the Industrial Disputes Act.

4. Moreover, in the case on hand, the individual Directors of the Company have been arrayed as contemnors. Admittedly, the Company is a limited liability Company and the Directors of the Company cannot be made liable even for payment of the award amount. Admittedly, the Company is in liquidation and it is open to the petitioner Union to approach the National Company Law Tribunal to prove its debts and seek payment of money due to the workmen. By no stretch of imagination can the Directors be held to have committed wilful disobedience of the orders of this Court.



5. Hence, this Contempt Petition is dismissed.

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(R.S.M., J.) (C.K., J.)
28.01.2025

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Speaking order



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