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

+ CS(OS) 5/2012, I.As. 10222/2017, 5686/2018, 12531-532/2018, 379/2019, 11902-904/2019, 11907/2019, 12059/2019, 5819/2020, 1082/2021, 467/2022 & 6165/2022

YASHWANT SINGH

..... Plaintiff

Through: Ms. Mahima Ahuja, Advocate.

versus

ASHUTOSH VERMA

..... Defendant

Through: Mr. Arun K. Srivastava, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **17.05.2022**

I.A. 6164/2022 (u/ Order XXXIX Rule 2-A of the Code of Civil Procedure, 1908 [hereinafter "CPC"] r/w Section 12 of the Contempt of Courts Act, 1971 [hereinafter "Contempt of Courts Act"] for disobedience of Order dated 16th December, 2021)

1. This is a second contempt application filed by the Plaintiff. The first contempt petition culminated into the Order dated 16th December, 2021 wherein the Defendant/ Contemnor was found to be guilty of contempt and certain directions as contained in paragraph No. 16 thereof were issued. Considering the fact that the Contemnor is an Advocate, at that stage the Court suspended punitive action against him for a year, with a direction to keep his conduct under scrutiny. The Defendant/ Contemnor assailed by the said Order before the Division Bench in FAO(OS) 34/2022 which was



dismissed as withdrawn with cost of Rs. 20,000/-.

2. The observation made by the Division Bench are telling and reproduced as under: -

“After substantial hearing, when we found no merit in the present appeal, and we expressed a view that the appellant has been lightly let off by the learned Single Judge, counsel for the appellant does not press this appeal.”

3. In the meantime, the Applicant/ Plaintiff filed application [I.A. 467/2022] seeking directions to the Defendant for complying with the Order dated 16th December, 2021 and initiation of contempt proceedings against the Contemnor/ Defendant for wilful disobedience of the said Order; this led to appointment of a Local Commissioner to report to the Court on the status of compliance of the directions contained in paragraph No. 16 of the Order dated 16th December, 2021.

4. In terms of the said directions, the Local Commissioner has now furnished a report [*hereinafter “LC Report”*], relevant portions whereof, reads as under: -

*“3. **That** near about 2:21 PM on 17/03/2022, the undersigned reached at the given address where the LC was to be executed i.e. A-24, Kailash Colony Delhi as per order dated 15.03.2022.*

*4. **That**, in the presence of the counsel of the Plaintiff i.e. Ms. Mahima Ahuja along with Plaintiff Mr. Yashwant Singh and in the presence of the non applicant/ defendant i.e. Mr. Ashutosh Verma, the undersigned started executing the commission. It is pertinent to mention here in that the counsel of the defendant i.e. Mr. Arun.k.Srivastva informed the undersigned that due to some health issue, he will not be in a position to remain present during the execution of the commission.*

*5. **That** the undersigned noticed first thing before entering the subject property is the name plate over which the name was of Mr. S.K.Singh.*



Therefore the undersigned clicked the picture of it in order to show that the name plate was not replaced by the defendant as per the Order dated 16th dec/2021 and which is itself a Non-Compliance. That the copy of the photograph of the name plate is annexed herewith as **ANNEXURE DOCUMENT-2**.

6. **That**, while entering the premises, the undersigned noticed that the main gate was locked and the helpers/ workers of the defendant were standing at the main gate. The undersigned requested the defendant i.e. Mr. Ashutosh verma to remove the lock and open main gate completely. The defendant asked his helpers to do the same.

7. **That** after entering the said premises, the undersigned checked the electricity supply and CCTV vis a vis the subject portion of the property (i.e. Basement, Ground Floor and Second Floor). However, the undersigned found out that there is no electricity supply restored by the defendant as per the Order dated 16th dec/2021, which is itself Non-Compliance on the part of the defendant. It is also pertinent to mention herein that the electricity meters related to the portion of the basement, first floor and second floor were also not there and are missing from the metre box and the CCTV which were there are related to defendant personal use. The undersigned clicked the picture of it in order to show that the same were not restored by the defendant. That the copy of the photograph of the Meter box/ CCTV are annexed herewith as **ANNEXURE DOCUMENT-3 (Colly)**.

8. **That** the undersigned thereafter proceeded towards the Basement, First Floor and Second Floor of the property and found a lock on the door of the each floor. The undersigned asked for the keys from the defendant; however the defendant and his workers denied the knowledge of the keys of that lock. The undersigned informed / requested them to hand over the keys otherwise the undersigned will ask to break it open. However, the defendant Mr. Ashutosh verma strongly opposed and asked the undersigned not to break the lock. The helpers/ workers of the defendant also showed strong resistance over the same.

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11. **That** it is pertinent to mention herein that the defendant also dialled/ called 100 number and informed the Police that the undersigned broke the locks of the premises and forcefully/ illegally taking possession. That after a while one Head Constable Sh. Pooran Mal came with the PCR car and asked for the reason behind breaking the locks etc. the undersigned showed the Order of the High Court of Delhi and informed him that the undersigned is just complying with the order dated 15/03/2022.”



5. Ms. Mahima Ahuja, counsel for the Petitioner further pointed out that despite putting a lock on the main gate, in the presence of the Local Commissioner, the Applicant/ Plaintiff still does not have free ingress to the property bearing No. A-24, Kailash Colony, New Delhi [*hereinafter “suit property”*] as the door is locked from the inside.

6. On the basis of the LC report, *prima facie*, the Respondent/ Contemnor is guilty of contempt to the Court. Mr. Arun K. Srivastava, counsel for the Defendant/ Contemnor states that he should be afforded an opportunity to file a reply and he assures that all the directions would be complied with, if not already done.

7. The Defendant/ Contemnor, an Advocate, cannot be allowed to overreach judicial orders. The orders of the Court must be strictly complied with and there cannot be no exception. Defendant/ Contemnor is expected to be versed with the legal procedures and also consequences of non-compliance thereof. Despite adverse and serious remarks made against him in the Order dated 16th December, 2021, as well as the Appellate Court, the Defendant/ Contemnor has shown scant regard to court order. A message needs to be sent stridently that casual approach on compliance of court orders will not be tolerated. The suspension of the punitive action against the Defendant/ Contemnor needs to be revoked.

8. Issue show cause notice to the Defendant/ Contemnor as to why contempt action should not be initiated against him. Notice is also issued for initiation of the punitive action that was kept in abeyance. Let reply, if any,



be filed within 10 days from today.

9. Re-notify on 30th May, 2022.

SANJEEV NARULA, J

MAY 17, 2022
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