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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 1900/2015**

MANIKA MADAN Plaintiff

Through **Ms.Payal Jain, Adv.**

versus

MAMTA NAGPAL & ANR Defendant

Through **Mr.Vikram Singh Dahiya, Advocate**
for D-1.

Ms.Mansi Gupta, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **18.02.2021**

This hearing is conducted through video conferencing.

IA. No.5622, 8707 & 11368/2019

Learned counsel for defendant No.1 states that he does not press these applications. The applications are disposed of as not pressed.

CS(OS) 1900/2015

Parties to file draft issues within four weeks from today.

List on 07.04.2021.

CCP(O) 56/2020

1. This contempt petition is filed by petitioner/defendant No.2 against defendant No.1, Ms.Mamta Nagpal under section 12 of Contempt of Courts Act for violating the order of this court dated 19.03.2020.

2. On 19.03.2020, this court had passed the following orders:

“8. Ms. Payal Jain, who, as indicated above, represents the plaintiff, says that the plaintiff will bear the burden of the tax qua the properties referred to in paragraph 7 above in the



manner indicated therein.

9. Counsel for defendant No.1 submits likewise.

9.1 Furthermore, counsel for defendant No.1 submits that insofar as the West Patel Nagar Property is concerned, up-to-date property tax has been paid and that receipts qua the same will be filed in Court.

9.2 Counsel further submits that copies of the receipts will be furnished to the counsel for the plaintiff as well as the counsel for defendant no.2.

10. In these circumstances, the application is disposed of with the following directions:

(i). Defendant No.2 will pay the entire outstanding property tax vis-a-vis the Maya Puri Property and the Hari Nagar Property without fail on or before 31.3.2020.

(ii). The plaintiff and defendant No.1 will, (upon receipts being produced evidencing payment of property tax) remit their share equivalent to $1/3^{\text{rd}}$ of the total amount to defendant No.2 within a period of one week of such intimation being given.

(iii). Defendant No.1 will file, in Court, receipts evidencing payment of property tax qua West Patel Nagar Property.

(iv). In case it is found that the payment of property was either not made or delayed whereby the rebate available was lost, the burden of the excess amount, if any, payable towards tax, interest or penalty will be borne entirely by defendant No.1.”

3. On 14.12.2020, this court while issuing notice of this contempt petition passed the following orders:



“CCP (O) 56/2020

1. By this petition the applicant/defendant No.2 alleges violation of the order dated 19th March, 2020 by defendant No.1/ Ms.Mamta Nagpal.

2. Vide order dated 19th March, 2020, this Court passed the following directions:

“10.In these circumstances, the application is disposed of with the following directions:

(i). Defendant No.2 will pay the entire outstanding property tax vis-a-vis the Maya Puri Property and the Hari Nagar Property without fail on or before 31.3.2020.

(ii).The plaintiff and defendant No.1 will, (upon receipts being produced evidencing payment of property tax) remit their share equivalent to 1/3rd of the total amount to defendant No.2 within a period of one week of such intimation being given.

(iii). Defendant No.1 will file, in Court, receipts evidencing payment of property tax qua West Patel Nagar Property.

(iv). In case it is found that the payment of property was either not made or delayed whereby the rebate available was lost, the burden of the excess amount, if any, payable towards tax, interest or penalty will be borne entirely by defendant No.1.”

3. In terms of the directions defendant No.2 claims that the entire outstanding property tax vis-a-vis Mayapuri Property and the Hari Nagar property has been paid by the defendant No.2. Copies of the receipts of the payment have been shared with the plaintiff and the defendant No.1, however defendant No.1 despite having received copies of the receipt evidencing payment of property tax, failed to remit defendant No.1's shares equivalent to 1/3rd of the total amount paid by defendant No.2 within a period of one week of such intimation being given; and



has not complied with the directions as passed by this Court on 19th March, 2020.

4. Today before this Court there is some connection problem with the learned counsel appearing on behalf of defendant No.1. However, husband of defendant No.1/ Mr.Rajeshwar Nagpal has made submissions. His case is that the defendant No.2 is receiving the entire rent and not sharing with the same with the defendant No.1. He further states that defendant No.1 be permitted to appear physically before this Court.

5. Be that as it may, the final monetary settlement as to which of the parties will be entitled, if any, will be settled by this Court on the decision in the suit. However, the same does not warrant defendant No.1 to not obey the orders passed by this Court.

6. Consequently, issue show cause notice against defendant No.1 as to why proceedings under the Contempt of Court Act be not initiated against defendant No.1.

xxxxxx”

4. Defendant No.1 has filed a reply to the present contempt petition. In the reply, a plea is taken that defendant No.1 will abide by the order of this court dated 19.03.2020. However, it is stated that defendant No.1 would have paid her share if there had been no outbreak of Covid-19. On account of Covid-19, defendant No.1 is in a great hardship and financial difficulty as the only source of income of her husband from his legal practice has completely stopped. It is also stated that defendant No.1 is not gainfully employed and is entirely financially dependent on her husband. Once the court starts functioning physically, it is stated that defendant No.1 will withdraw her share from the rent deposited in court and shall pay the amount to defendant No.2. It is also stated that if for some reasons defendant No.2



needs money, defendant No.1 will move an IA for virtual hearing provided the plaintiff supports the case of defendant No.1.

5. I may note that the above order of this court dated 19.03.2020 was passed in IA No.3630/2020. The relevant portion of the said IA No.3630/2020 reads as follows:

“1. That the applicant herein, defendant 1, is depositing Rs.20,000 per month as the rent collected from the tenant of Suit Property of West Patel Nagar, New Delhi in this Hon'ble Court.

2. That this Hon'ble Court passed a consent order dated 18.04.2017 in IA 33/2017 of this suit by which the applicant herein has been permitted to withdraw the deposited rent along with the accrued interest for payment of the present, past and future property taxes of the Suit Properties.

3. That there is a liability of Property taxes of the Mayapuri Suit property from 2012-13 till the present date as well as of other Suit Properties for 2019-2020 and this can be paid from the withdrawal of rent deposited in this Hon'ble Court.

4. That the Property Tax is based upon Unit Area Method and hence the applicant has to measure the correct area of Mayapuri Suit Property for correct deposition of Property tax, the cooperation of defendant 2 is required to allow the applicant to enter upon and measure the area in possession of defendant 2 herein.

PRAYER:

In view of above said facts and circumstances, it's humbly and graciously prayed to this Hon'ble Court that

(a) Applicant herein/defendant 1 may please be allowed to withdraw the rent deposited with this Hon'ble Court along with the accrued interest for payment of past and present Property



taxes of Suit Properties.

(b) Defendant 2 may please be directed to cooperate with defendant 1 for measuring of correct area of the Mayapuri Suit Property for calculating and depositing the rightful property taxes to MCD.

(c) Any other or further order(s) may also be passed by this Hon'ble Court in the interest of justice.”

6. Clearly, in the application itself defendant No.1 had sought withdrawal of the rent that was being deposited in this court for the purpose of payment of past and present property taxes of the suit properties.

7. It was on that request that the aforesaid order dated 19.03.2020 was passed. Hence, the plea which was then raised, namely, permission to withdraw the rent which is being deposited in this court for the Kalkaji property to pay the tax is again raised in the reply to the present contempt petition. The same plea was raised when the court passed the order dated 19.03.2020 in IA No.3630/2020. This plea was not accepted by the court and the said order dated 19.03.2020 was passed. Mischievously, the same plea is now sought to be raised again.

8. Further, it is also clear from the perusal of the order dated 19.03.2020 that it is an order that was passed with the consent of learned counsel for the plaintiff and defendant No.1.

9. It is clear that defendant No.1 is coming up with all kinds of excuses not to pay the accepted liability of Rs.78,702/- which is payable in view of the order of this court dated 19.03.2020. It is manifest that defendant No.1 is wilfully disobeying the orders of this court.

10. I accordingly hold defendant No.1 guilty of contempt of court.



However, in the interest of justice, one final opportunity is granted to defendant No.1 to comply with the order of this court dated 19.03.2020 and to make necessary payment to defendant No.2 within four weeks from today. If defendant No.1 fails to pay the needful as stated above further directions/appropriate sentence will be passed.

11. List for further orders on 07.04.2021.

JAYANT NATH, J.

FEBRUARY 18, 2021/v