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

+ CONT.CAS(C) 889/2015, 189/2016 and 1284/2016

HANSRAJ GUPTA & CO (P) LTD Petitioner
Through: Mr. Anand Yadav with Ms. Anita
Tomar, Advocates

versus

USHA WADHWA & ORS Respondents
Through: Ms. Smita Maan, Advocate for R-1, R-3
to R-5 with R-1, R-3 to R-5 in person.
Mr. Honey Khanna, Ms. Vaishali Soni and
Mr. Manish Lamba, Advocate for R-2 with R-2
in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **14.12.2017**

1. CONT.CAS(C) 889/2015 was filed by the petitioner (appellant in LPA 536/2012) in November, 2015 stating *inter alia* that the respondents have wilfully disobeyed the order dated 25.07.2012 passed in the aforesaid appeal, whereunder *status quo* as on the date of the order was directed. The petitioner has averred in this petition that despite the aforesaid order, the respondents started dumping truckloads of *Malba*/soil to raise the level of the petitioner's land and change its status.
2. A second contempt petition, [CONT.CAS(C) 189/2016] was filed by the petitioner in February, 2016, stating *inter alia* that the respondents had

again violated the status qua order dated 25.07.2012, by demolishing the boundary wall of the disputed land and by using the agricultural land/farm house for commercial purposes.

3. The third petition registered as CONT.CAS(C) 1284/2016 was filed by the petitioner in November, 2016 stating *inter alia* that in violation of the *status qua* order dated 25.07.2012, the respondents had interfered with his possession of the disputed land on 20.11.2016, by paving the same with concrete to make a road and by damaging/cutting down the trees standing thereon.

4. Notice was issued to the respondents in CONT.CAS(C) 889/2015 and 189/2016 on 29.02.2016, and in CONT.CAS(C) 1284/2016, on 05.12.2016. As per the records, pleadings *qua* the respondents No.1 and 2 are complete in CONT.CAS(C) 889/2015. However, the respondents No.3 to 5 have not filed their replies till date. In CONT.CAS(C) 189/2016, pleadings *qua* the respondents No.2 and 4 are complete but the remaining respondents No.1, 3 and 5 have not filed their replies. In CONT.CAS(C) 1284/2016, none of the respondents have bothered to file their replies till date.

5. On 05.09.2017, Mr. Digpaul, the earlier counsel appearing for the respondents No.2 and 4 had stopped appearing and Mr. Yadav, learned counsel for the petitioner had stated that he had received a message on his mobile phone from the previous counsel that he was no longer representing the respondents. Noting the fact that despite service, the respondents were not appearing, bailable warrants had to be issued by the predecessor Bench for securing their presence in court for today.

6. Today, appearance is entered by Ms. Smita Maan, Advocate for the respondents No.1, 3 to 5 and Mr. Honey Khanna, Advocate appears for the respondent No.2. Ms. Maan states that she has recently been engaged in the present petitions and may be granted time to file replies. Counsel for the respondent No.2 states that he has filed replies in CONT.CAS(C) 889/2015 and 189/2016. However, no replies have been filed so far in CONT.CAS(C) 1284/2016. The lame excuse offered by counsel for the respondent No.2 for his absence on the earlier date is that by the time he had reached the Court, the matters were already over. The explanation offered by Ms. Maan, learned counsel for the respondents No.1 and 3 to 5 is that the interest of all the respondents was being taken care of by the respondent No.2 and they were under an impression that they were not required to take any steps.

7. It is noteworthy that except for the respondents No.1 and 2 in CONT.CAS(C) 889/2015 and the respondents No.2 and 4 in CONT.CAS(C) 189/2016, the remaining respondents have not bothered to file their replies for the past two years and none of the respondents have filed their replies in CONT.CAS(C) 1284/2016 for the past one year. The said position is absolutely unacceptable. There is no explanation worth the name offered by the counsels for the respondents for their failure to appear and file their replies in the present petitions. It was in this background that the predecessor Bench was compelled to issue bailable warrants to secure the presence of the respondents.

8. The conduct of the respondents is a clear indication of how lightly they have been taking the contempt proceedings. It was the duty of each one

of the respondents to be vigilant and diligent in a matter of such a serious nature, but none of them seem to have taken any effective steps to respond to the notices issued in the contempt petitions and appear regularly in the matter.

9. Ideally, we ought to proceed to hear the matter on merits, without awaiting any response from such of the respondents, who have failed to file their replies for the past several months. However, as learned counsels for the respondents plead that they may be given one last opportunity to file their replies, it is directed that subject to the respondents depositing a sum of Rs.50,000/- each in the petitions, in the Registry, within four weeks from today, last opportunity of four weeks is granted to them to file their replies. Depending on the outcome of the present proceedings, a decision shall be taken for the release/disbursal the said amounts. The Registry shall place the amounts in separate FDRs, initially for a period of six months to be renewed thereafter from time to time.

10. Till further orders, the respondents shall remain present as and when the petitions are listed in court.

11. List on 19.03.2018.

HIMA KOHLI, J

REKHA PALLI, J

DECEMBER 14, 2017

rkb/ap