

GAHC010064452020



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C) 2117/2020

1:SHOBA KIKAKARA MANI AND ANR.
R/O LAKEVIEW APARTMENT, DHARAPUR, GUWAHATI-781014

2: ASHIM NATH
DIRECTOR
NORTH EAST SHUTTLES PVT. LTD. R/O J- 201
FORTUNE CITY
155 OLD JESSORE ROAD
GANGANAGAR
KOLKATA-70013

VERSUS

1:M/S. GOMUKHI CONSTRUCTION PVT. LTD. AND 4 ORS.
A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956, HAVING
ITS REGISTERED OFFICE AT 62 C/1, MAHARAJA TAGORE ROAD, 2ND
FLOOR, DHAKURIA, KOLKATA-700031, REP .BY ITS MANAGING DIRECTOR

2:RAJARAMAN CHANDRAMOULI
DIRECTOR
M/S GOMUKHI CONSTRUCTION PVT. LTD. S/O SUBRAMANIYAN
RAJARAMAN
R/O 20H STATION ROAD
DHAKURIA
KOLKATA-700031

3:VIJAYA LAKSHMI CHANDARMOUI
DIRECTOR
M/S GOMUKHI CONSTRUCTION PVT. LTD. W/O RAJARAMAN
CHANDRAMOULI
R/O 20H STATION ROAD
DHAKURIA
KOLKATA-700031

4:SANJIB BORDOLOI AVSM (RETD.)
SPECIAL OFFICER APPOINTED BY THE NATIONAL COMPANY LAW
TRIBUNAL
GUWAHATI BENCH
R/O S-17A/5
GROUND FLOOR
DLF CITY PHASE-III
GURUGRAM-122002
HARYANA.

5:THE REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
ULUBARI
GUWAHATI-78100

Advocate for the Petitioner : MR. P N GOSWAMI

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 19-10-2020

Heard Mr. P.N. Goswami, learned counsel for the petitioners.

2. By this writ petition filed under Article 226 of the Constitution of India, the petitioner has challenged the order dated 24.02.2020 passed by the learned National Company Law Tribunal, Guwahati Bench thereby initiating suo-moto contempt proceedings against the petitioners. The learned counsel for the petitioners has referred to the order dated 14.11.2014 passed by the Company Law Board, Kolkata Bench in CA no.201/2013, CA no.573/2013 and CP no.969/2012, thereby disposing of the CP no.969/2012 in terms of the settlement which is made a part of the order. It is submitted that the petitioners were required to make settlement amount of the respondents no.1, 2 and 3.

3. It is submitted that for enforcement of the said prayer, Contempt application no.2/2018 was initiated and certain orders were passed on 29.01.2020 in Contempt

application no.2/2018. Moreover, on 24.02.2020 in connection with Contempt application no.2/2018 a prayer for adjournment was made by the petitioner. The learned National Company Law Tribunal initiated suo-moto contempt proceeding in connection with the said contempt case.

4. The learned counsel for the petitioner submits that drawing up a suo-moto contempt proceeding in an existing proceeding is not tenable. It is submitted that the learned National Company Law Tribunal is not powerless as to pass appropriate orders, if the petitioner is found to be guilty of wilful and deliberate violation of judgment of the Court, but no contempt petition can be initiated in a contempt proceeding.

5. Accordingly, let a notice returnable in 4 (four) weeks be issued.

6. The petitioners shall take steps for service of notice on the respondents by registered post with A/D within 2 (two) days.

7. Liberty is granted to the learned counsel for the petitioners to collect the postal receipt number from the Registry and track service through the postal website and the track report may be filed before the Registry prior to the next date fixed.

8. As an interim measure, it is provided that pursuant to order dated 22.02.2020, in Contempt application No.2/2018, no coercive measures shall be taken against the petitioners till the next date of listing.

9. List on 23.11.2020.

JUDGE

Comparing Assistant