

ITEM NO.101

COURT NO.9

SECTION XIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3446 OF 2006

T.O.ALEYAS & ORS.

Appellant (s)

VERSUS

M/S. ST.MARY'S HOTELS (P) LTD. & ORS.

Respondent(s)

(With appln(s) for directions and office report)

WITH Civil Appeal NO. 3445 of 2006(With office report)

WITH CONTEMPT PET.(C) NO. 189/2008 IN C.A. 3446/2006 AND
CONTEMPT PET. (C)NO. 25/2009 IN C.A. NO. 3446/2006

Date: 22/04/2009 These Appeals/petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s) Mr. Prashant Bhushan, Adv.
and petitioners in Mr.Fazlin Anam, adv.
Cont. Pet.(C) 25/09 Mr. E.M.S. Anam,Adv.

For Pet. in Mr. P.S. Patwalia, Sr. adv.
Cont. Pet. (C) 189/08 Mr. Romy Chacko, Adv.
Mr. Venkat Subramani, Adv.
Mr. Girijesh Pandey, Adv.

For Respondent(s) Mr. P.S. Patwalia, Sr. adv.
in CA No. 3445/06 Mr. Romy Chacko,Adv.
Mr. Venkat Subramani, Adv.
Mr. Grijesh Pandey, adv.

in CA No. 3446/06 Mr. Anil B. Divan, Sr. adv.
Mr. Romy Chacko,Adv.
Mr. Venkat Subramani, Adv.
Mr. Grijesh Pandey, adv.

For R-1 to 4 in Mr. Prashant Bhushan, Adv.
Cont. Pet.(C) 189/08 Mr. Fazlin Anam, Adv.
Mr. E.M.S. Anam, Adv.

UPON hearing counsel the Court made the following
ORDER

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The appeals and contempts petitions are dismissed in terms
of the signed order. Notice of contempt is discharged in Cont. Pet. (C)
No. 189/2008.

(Ajay Kr. Jain)
Court Master

(Pushap Lata Bharadwaj)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3446 OF 2006

T.O. Aleyas & Ors. Appellants

Versus

St. Mary's Hotels (P) Ltd. & Ors. Respondents

WITH

C.A. No. 3445/2006, Contempt Petition (C) No. 189/2008 in C.A. No. 3446/2006 and Contempt Petition (C) No. 25/2009 in C.A. No. 3446/2006

ORDER

Heard learned counsel for the parties and perused the record.

These appeals have been filed against the common impugned judgment and order dated 01.03.2005 passed by a Division Bench of the High Court of Kerala.

We have carefully perused the impugned judgment and order as well as the order passed by the Company Law Board. By the impugned order the High Court has only disposed of Company Appeal Nos. 33/2004 and 36/2004 and remanded the matter to the Company Law Board for making a fresh inquiry in accordance with law. We fully agree with the judgment of the High Court that the matter deserves to be remanded to the Company Law Board. Accordingly, we dismiss these appeals. If the appellants wish to amend the petition originally filed before the Company Law Board, they may apply to the Company Law Board for that purpose, and if, such an application is made, the respondents will have a right to file additional written statement to oppose the amendment. After hearing both the parties, the Company Law Board may or may not allow the proposed

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amendment. The Company Law Board shall give an opportunity to the parties to lead additional evidence in addition to the evidence already filed before it. Thereafter, the Company Law Board shall adjudicate the matter afresh in accordance with law after taking into consideration the material on record and submission of learned counsel for the parties. The Company Law Board shall decide the matter within a period of four (4) months from the date of production of a copy of this order, uninfluenced by any observations made by the High Court in the impugned order dated 1.3.2005

or in the earlier order passed by the Company Law Board.

We are of the opinion that the Company Law Board has also power to pass interim orders pending final decision in the dispute. Hence, if any of the parties prays for any interim order, it can apply to the Company Law Board and the Board may, if it deems fit, pass an interim order after perusing the material brought on record and after hearing both the parties and in accordance with law.

Contempt Petition (C) Nos. 189/2008 and 25/2009

These contempt petitions have been filed complaining violation of the orders passed by this Court.

It is well settled that contempt jurisdiction is a discretionary jurisdiction. Hence, even if there is any violation of the order of this Court, we are not bound to take action against the respondents. On the facts of the case, we are not inclined to take any action on these contempt petitions, which are hence dismissed. Notice of contempt in Contempt Petition (C) No. 189/2008 is discharged.

.....J.
(MARKANDEY KATJU)

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.....J.
(H.L. DATTU)

New Delhi
April 22, 2009