

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Contempt Case (AT) No. 05 of 2020

in

Company Appeal (AT) No. 100 of 2018

IN THE MATTER OF:

Asher Ebrahim Melamed

...Applicant.

Versus

Mr. Soumitra Banerjee & Anr.

...Contemnors.

Present:

For Appellant: Mr. Deepak Kapoor, Advocate.

For Respondent: None.

ORDER
(Virtual Mode)

13.01.2021 The Applicant has filed this Contempt Case against the Respondent Mr. Soumitra Banerjee and Ms. Shampa Banerjee as Contemnors. The Applicant claims that the Respondents had filed Company Appeal (AT) No. 100 of 2018 in which the Order dated 25th April 2018 was passed which reads as under:

“Mr. Deepak Kapoor, learned counsel appearing on behalf of 1st Respondent prays for and allowed 10 days’ time to file reply. Rejoinder, if any, may be filed by the Appellant within 4 days thereof.

Post the matter on 11th May, 2018.

Until further order, the Interim Order passed on 9th April, 2018 shall continue. During the pendency of the appeal, the respondent will not withdraw or spend or divert any amount of the Company except for day-to-day functioning of the company and not for any other purpose.”

2. The Learned Counsel submits that in the operative part where direction is that 'Respondent' will not withdraw it was actually meant for the Appellants Mr. Soumitra Banerjee and Ms. Shampa Banerjee who were in the management of the Company.

3. The Learned Counsel submits that in spite of such orders, the Respondents Mr. Soumitra Banerjee and Ms. Shampa Banerjee caused losses to the Company and kept the concerned property vacant causing loss to the company and thereafter have leased out the property to a person who is of doubtful standing and have caused loss to the company. This contempt is alleged.

4. It is noticed that the Company Appeal (AT) No. 100 of 2018 itself has been disposed on merits. The copy of the Judgment shows that the present Applicant Asher Ebrahim Melamed had filed Application for oppression and mismanagement and the Ld. NCLT had after considering the matter allowed the Company to liquidate its assets. This order has been upheld in the order dated 12th March, 2020 while disposing the Company Appeal (AT) No. 100 of 2018.

5. Considering the fact that the Interim Impugned Order would merge in the final order of this Tribunal, and the fact that now the matter is before the Ld. NCLT for the purposes of liquidation, we do not find any reason to entertain the present Contempt Case before this Tribunal. The Applicant may, if so desired, move an Application before the Ld. NCLT which will decide the same one way or the other as per provisions of law.

With these observations, the Application stands disposed of.

[Justice A.I.S. Cheema]
Member (Judicial)

[Mr. V.P. Singh]
Member (Technical)

Basant B./md.