

(2018) 11 RAJ CK 0024

In the Rajasthan High Court

Case No : Civil Contempt Petition No.378 of 2012

Bharti Retail Limited @APPELLANT@Hash Vijay Ajmera, and ors

Date of Decision : 20-11-2018

Acts Referred:

Indian Penal Code, 1860 — Section 186

Citation : (2018) 11 RAJ CK 0024

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : S. Kasliwal, Manish Priyadarshi, Palak Saxena

Final Decision : Disposed Off

Judgement

This contempt petition has been filed alleging deliberate breach of the order dated 30-3-2012 passed by this court on a Civil Misc. Stay Application

No.936/2012 filed along with SB Civil First Appeal No.211/2012. Thereby the respondents therein one Maniam Properties Private Limited was

restrained from creating any hurdle in the appellant removing its goods/ stocks lying there in the Hypermart (of which they apparently were tenants).

It has been stated that pursuant to order dated 30-3-2012 the petitioner as the beneficiary thereof sent 12 trucks, as detailed in para No.6 of this

petition, for removing its goods/ stock from the Hypermart. Those trucks were not deliberately allowed to enter the building by the employees of

Maniam Properties Private Limited and despite police help being sought for the implementation of the court's order physical force was used to prevent

removal of the goods. For that a complaint under Section 186 IPC was filed by the police. All this despite the court's order dated 30-3-2012 being

shown. Subsequently the court's order in issue was communicated by letters, including registered post and email. Obstruction in the removal of goods

yet thereafter continued. In fact vide letter dated 31-3-2012 the counsel for Maniam Properties Private Limited required by his letter addressed to the petitioner's counsel that no action be taken to remove the goods/ stock from the Hypermart till the receipt of the detailed order to be further passed by the court as evident from the order dated 30-3-2012 itself. It has been submitted that all the respondents having actively participated in obstructing the enforcement of the court's order dated 30-3-2012 and preventing the removal of goods despite communication of the court's order, they are in contempt and be punished.

During the course of hearing a copy of the letter dated 16-5-2012 addressed by the petitioner itself to M/s. Maniam Properties Pvt. Ltd.--the respondent company before the court of which the respondents now in this contempt petition are directors and employees, has been passed over to the court by counsel for the respondents. That is taken on record as it cannot be disputed being written on behalf of the petitioner company itself. The letter indicates that the petitioner removed all its goods etc. on 9-4-2012 from the tenanted premises in issue before the court in its order dated 30-3-2012. The said letter states that the request to take over the keys of the tenanted premises had also been made to one Siddharth Mukherjee such that liability towards rent would thereafter not arise. Counsel for respondents submitted that no contempt as alleged in the aforesaid fact is made out and the contempt petition is only an attempt to harass the respondents..

Heard counsel for the parties and perused the material available on record.

The order dated 30-3-2012, contempt of which is alleged, reads thus reads thus: "After having heard the parties, the stay application allowed. The respondent is restrained from creating any hurdle by it or through its agents in the appellant's removing its goods/ stock lying in the Hypermart. (see detailed separate order)". (underlining mine)

Another order disposing of the first appeal No.211/2012 was also passed on 30-3-2012. That order also records that a "detailed order would follow (underlining mine). No further detailed order in the first appeal No.211/2012 has been brought to notice of the court and is also not part of the contempt petition.

Be as it may a civil contempt, as the present petition is, is primarily an execution proceeding. In the instant case in execution of the order dated 30-3-

2012 as evident from the petitioner's letter dated 16-5-2012 the petitioner has taken all its goods from the tenanted premises and vacated it even

though the date of vacation may be subject to proceedings before the trial court as appears from tenor of the dispute culled out from this petition?"a

tenant seeking to vacate and a landlord insisting in terms of the lease agreement or otherwise conditionalities be satisfied therefor.

It is also important to notice that the order dated 30-3-2012 in Stay Application No.936/2012 did not specify the date on or before which the petitioner

would be entitled to remove its goods from the tenanted premies. And it was ordered that "see detailed separate order". Another order of the

same date 30-3-2012 in First appeal No.211/2012 disposing it of also states that a detailed order would follow (underlining mine). Nothing with regard

to the "detailed order follow" has been brought to the court's notice. I am thus of the considered view in the overall facts obtaining as recorded

above, that the alleged obstruction in the removal of goods/ stock on 30-3-2012 to 1-4-2012 set out in his petition even before the receipt of certified

copy of the complete order of the court can not be a ground to hold the respondents in contempt. Some of the contemnors are also facing proceedings

under Section 186 IPC for alleged obstruction of police officers while it was trying to facilitate removal of goods/ stock from the Hypermart on 30-3-

2012 in pursuance of the court's order on the same day. Rather efficient! The merit of the allegations in regard thereto in this contempt petition cannot

be determined. It would be so in appropriate AN'HIC proceedings. No final order in regard thereto has been brought to my notice.

It would be well to reiterate that proceedings of contempt of court are quasi criminal in nature. They are not lightly to be invoked or punishment

casually visited without good cause founded on egregious default in complying with the court's direction within time specified. A clear cut and

continuing contravention or breach of an order should be established in contempt proceedings for the court to find contempt and punish therefor. The

court cannot speculate or infer contempt of its order de hors its specificity and following over all facts and circumstances more so against all and

sundry directors of a company resident thousand of miles from the purported event of contempt rooted in alleged physical obstruction at a place.

For the reasons detailed above, I find no merit in the contempt petition. It is dismissed.