

(2009) 04 DEL CK 0309

In the Delhi High Court

Case No : Cont. Cas. (C) No. 1429 of 2006 in WP (C) No. 12205 of 2006

Competition Review (P) Ltd.

APPELLANT

Vs

Employees State Insurance Corporation and Others

RESPONDENT

Date of Decision : 02-04-2009

Acts Referred:

Contempt of Courts Act, 1971 — Section 11, 12

Citation : (2009) 04 DEL CK 0309

Hon'ble Judges : V.K. Shali, J

Bench : Single Bench

Advocate : Vimal Bagarniya, for Vinay Sabharwal, for the Appellant; P.I. Jose, Vivek Kandari, Advs for respondent No. 1 and Feroze, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Shali, J.—The petitioner has filed the present contempt petition against the respondents u/s 11 and 12 of the Contempt of Court Act, 1971 for having willfully and deliberately violated the order dated 2nd August, 2006 passed by this Court in Writ Petition No. 12205/2006.

2. By virtue of the order dated 2nd August, 2006 a show cause notice was issued in the aforesaid writ and in the meantime the recovery of the amount was stayed from the petitioner. The case of the petitioner in the contempt petition is that the stay of interim order against the recovery notice was duly served on the respondents but despite the service the respondents willfully disobeyed the stay order passed by issuing a recovery notice on 1st November, 2006 and hence the present petition.

3. The petitioner in proof of service of the said interim order has placed on record, the original photocopy of the receipt of the speed post and the original AD card addressed to the respondents which shows that the order dated 2nd August, 2006 was received by the officer to the respondents on 29th September, 2006 and yet a recovery notice dated 1st November, 2006 was issued and thus,

the respondent have committed the contempt u/s 11 and 12 of the Contempt of Court Act, 1971.

4. The counsel for the respondents has filed counter affidavit and has made a specific averment that the order dated 2nd August, 2006 came to their notice only on 13th November, 2006 while as the recovery notice was issued on 1st November, 2006. In any case, it has been stated by the respondents in the counter Cont. Cas. (C) No. 1429/2006 in WP(C) No. 12205/2006 affidavit that there was no intention on the part of the respondents to willfully or contumaciously disobey the orders of the Court. This is on account of the fact that the recovery notice dated 01.11.2006 received on 13.11.2006 has been withdrawn on 16th November, 2006. The withdrawal of recovery notice has been placed on record by the respondents along with the counter affidavit.

5. In view of the fact that the recovery notice stands already withdrawn by the respondents which is claimed to have been issued inadvertently on account of the non service of the stay order, the present contempt does not survive. I, accordingly, discharge the contempt notice and dismiss the contempt petition.