

(2006) 02 DEL CK 0118

In the Delhi High Court

Case No : Cont. Cas. (Criminal) No. 13 of 2004

Sapient Corporation Private Limited

APPELLANT

Vs

Mr. Amit Govil

RESPONDENT

Date of Decision : 08-02-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 2 Rule 2, Order 39 Rule 1, Order 39 Rule 2, 10

Constitution of India, 1950 — Article 215

Contempt of Courts Act, 1971 — Section 12

Citation : (2006) CriLJ 2073 : (2006) 128 DLT 283 : (2006) 87 DRJ 562

Hon'ble Judges : Manmohan Sarin, J; Manju Goel, J

Bench : Division Bench

Advocate : Ashish Dholakia and Ameet Nayak, for the Appellant; Arun Bhardwaj and Karunesh, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Petitioner M/s. Sapient Corporation Pvt. Ltd. has filed this petition for initiating proceedings against the respondent contemnor under Article 215 of the Constitution of India read with Section 12 of the Contempt of Court Act, 1971. The petitioner claims that the respondent-contemnor had instituted a suit bearing Suit No. 1664/2003 in the High Court of Delhi at New Delhi challenging his termination as Managing Director on the basis of termination letter dated 30.7.2003. The respondent in the said suit, apart from challenging the termination, inter alia claimed compensation of Rs. 7.59 crores. Respondent had also moved applications under Order 39 Rules 1 and 2 CPC and Order 2 Rule 2 CPC. However, no interim relief was granted in the said proceedings.

2. Respondent/Contemnor filed a subsequent suit bearing No. 92/2004 in March, 2004 in the District Courts being a suit for declaration and injunction. In the said suit, the respondent-plaintiff sought a declaration that he continued to be a Director on the Board of the plaintiff/petitioner. Consequently, preventive injunction was also sought on the defendant/petitioner herein from convening

any meeting of the Board of Directors in the absence of the respondent. Further, that respondent be informed of any meeting of the Board of Directors.

3. Petitioner moved an application u/s 10 of CPC seeking a stay of the subsequently filed suit by the respondent. Learned Civil Judge dismissed the said application moved by the petitioner holding that the respondent in the subsequent suit had sought a declaration with regard to his rights and duties as Director of the Company and continuing as a Director in the Company while in contradistinction challenge in the first suit was to termination of his services as a Managing Director and employee. Learned Civil Judge also observed that the facts regarding whether the respondent's termination of service entails removal of the respondent as a Director also, would need evidence.

4. Petitioner contends, relying on the decision of the Division Bench of this Court in Satish Khosla v. Eli Lilly Ranbaxy Ltd. and Anr. reported in (1998) 1 AD (DELHI) 927 that the respondent by concealing and not disclosing the factum of the already pending suit namely, Suit No. 1664/2003 in the High Court in the subsequent suit attempted to gain an unfair advantage in his quest for somehow getting an injunction from the Trial Court. Learned counsel for the petitioner contends that challenge in both the suits revolves around the letter of termination dated 30th July, 2003 and the respondent was thus, bound to disclose the factum of the pendency of the earlier suit in the suit instituted by him.

5. Mr. Arun Bhardwaj, Advocate, appearing for the respondent submits that the petitioner's application u/s 10 of the CPC having been dismissed, it cannot be said that the nature of the relief sought in the two suits was identical. He urges that the second suit could be continued independently by the respondent and the non-disclosure was at best an omission and could not fall in the category of attempting a fraud on the Court, rendering the respondent punishable for contempt.

6. After some reflection, learned counsel for the respondent gracefully submits that the respondent in all fairness, should have mentioned the filing of the earlier suit in the present suit. Respondent regrets this omission and states that the same may be excused by the Court.

7. Having noted the rival contentions as above and considering that the petitioner's application u/s 10 of the CPC had been dismissed and the respondent has seemingly set up an arguable plea of reliefs being different, we are of the view, in the circumstances, that a quietus should be applied to the matter in view of the regret expressed by the respondent and his seeking to be excused for the omission.

Learned counsel for the respondent submits that the respondent as a token of his regret, would voluntarily contribute Rs. 20,000/- to the Delhi High Court Mediation and Conciliation Centre and would pay another Rs. 5,000/- to the petitioner towards legal costs of these proceedings. Let this be done within 10

days from today.

The contempt notice is, accordingly, discharged.