2025 INSC 1240

REPORTABLE

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONTEMPT PETITION (C) No. 27/2025
in
C.A. No. 76/2023

M/S KHURANA BROTHERS Petitioner(s)

VERSUS

ANAND BARDHAN PRINCIPAL SECRETARY & ANR. Respondent(s)

O R D E R

1. Heard learned Counsel for the parties.

2. This contempt petition alleges willful disobedience of this Court's order dated 04.01.2023 passed in Civil Appeal No. 76/2023.

3. A perusal of the record would reveal that Civil Appeal No.76 of 2023 was filed against an order of a Division Bench of the High Court of Judicature at Allahabad passed in an intra court appeal against an order of Single Judge of the High Court. Though the intra court appeal was dismissed, certain observations were there which, according to the petitioner, made petitioner's position worse than what it was

after the order of Single Judge. Therefore, the same was challenged before this Court by seeking leave to appeal. Though this Court granted leave to appeal, the learned counsel for the appellant instead of pressing the appeal on merits made a statement that he may be permitted to withdraw the intra court appeal that was filed before the Division Bench of the High Court so that his position as obtaining under the order of the Single Judge of the High Court is restored. This prayer was accepted by this Court *vide* order dated 04.01.2023, and the appeal was disposed of by observing that the intra court appeal preferred before the Division Bench of the High Court shall stand withdrawn and parties shall work out their respective rights in terms of the order of the learned Single Judge of the High Court.

4. Now, this contempt petition is filed alleging that the contemnor respondents have not complied the order of the Single Judge of the High Court as restored by this Court's order dated 04.01.2023.

5. On the last date, when this matter was taken up, we had passed an order requesting the counsel for the petitioner to address the Court as to why this contempt petition be not disposed of by giving liberty to the petitioner to initiate such proceedings, if required, before the High Court as the order of which violation is alleged is of the Single Judge of the High Court consequent to the withdrawal of the intra-court appeal.

6. In response to the last order, the learned counsel for the petitioner submits that as the order of this Court dated 4.1.2023 was passed after grant of leave, the *doctrine of merger* would apply and, therefore, the contempt would lie before this Court.

7. The aforesaid submission may appear attractive but in the facts of the present case is not acceptable. Reason being the doctrine of merger is not a doctrine of rigid and universal application and it cannot be said that wherever there are two orders, one by inferior court or tribunal and the other by superior court or

tribunal, passed in an appeal or revision, there is fusion or merger of two orders irrespective of the subject matter of the appellate or revisional order and the scope of appeal or revision contemplated by the particular statute. In *State of Madras v. Madurai Mills co. Ltd., 1966 SCC OnLine SC 140 (equivalent to AIR 1967 SC 681)*, a three-Judge Bench of this Court held that application of the doctrine of merger depends on the nature of the appellate or revisional order in each case and the scope of the statutory provisions conferring the appellate or revisional jurisdiction.

8. In the case on hand, this Court had allowed the petitioner to withdraw the intra court appeal in which the order under challenge in appeal before this Court was passed. As a result, once the appeal before the Division Bench of the High Court stood withdrawn so did all orders passed therein. Once that is the position, by fiction of law the parties would stand relegated to the stage at which they

were on the date of filing of the intra court appeal. In such circumstances, the order of the learned Single Judge of the High Court would operate from the date of this Court's order as if it had never been challenged.

9. In our view, therefore, contempt, if any, would lie before the High Court. We, accordingly, deem it appropriate to dispose of this contempt petition by giving liberty to the petitioner to initiate contempt proceedings before the High Court if the order of the Single Judge of the High Court has been violated, as is alleged.

10. Contempt petition and all pending application shall stand disposed of. It is made clear that we have not expressed any opinion on the merits of the matter before us.

……..…..J
[MANOJ MISRA]

……..…..J
[UJJAL BHUYAN]

New Delhi
October 14, 2025