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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ O.M.P.(I) (COMM.) 186/2024, I.A. 31372/2024

BINA & ORS.

.....Petitioners

Through: Mr. Anuj Saxena, Mr. Anuj Ruhela
and Mr. Prakash Sharma, Advocates

versus

ASHOK BANSAL

.....Respondent

Through: Mr. H R Khan, Mr. Nihal Ahmad,
Mr. Tushar Swami, Advocates Along
with Defendant and his Son Nitin
Bansal
ASI Shamsheer Singh

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

28.10.2024

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1. Petitioners have filed the present Petition under Section 9 of the Arbitration & Conciliation Act 1996 seeking an interim Order restraining the Respondent herein from disposing off 30,000/- tons of industrial coal material, which, according to the Petitioners, have been acquired by the Petitioner's husband through his proprietorship firm.
2. On 31.05.2024 this Court issued notice in the present Petition and restrained the Respondent herein from dealing with the 30,000/- tons of industrial coal and the matter was adjourned to 17.09.2024.
3. On 12.07.2024 an application, being I.A. 33013/2024, was filed by the Petitioners for appointment of a Local Commissioner on the ground that



the Respondent is violating the Order dated 31.05.2024, by which the Respondent was restrained from dealing with the 30,000/- tons of industrial coal. This Court appointed Ms. Nandini Bali, Advocate as the Local Commissioner. Relevant portion of the Order dated 12.07.2024 reads as under:

“6. This Court, therefore, appoints Ms. Nandini Bali, Advocate (Mob: 9810155735) as a Local Commissioner to visit the premises of the respondent of M/s. G&G Concrete Solutions situated at Mustkil No. 47, Kila No. 25 (3-0), Mustkil No. 48, Kila No. 20/2(3-9), 21(8-0), 22(8-0), Mustkil No. 23 (8-0), Mustkil No.-62, Kila No. 5/1 /2(1- 17), with a total area of 31 Kanal & 10 Mario, Moja Bhupani, Faridabad - 121002, and submit a report as to whether there has, or has not, been breach of the order passed by this Court. The petitioner would be entitled to depute one representative to accompany the learned Local Commissioner while executing the commission.

7. The learned Local Commissioner shall be entitled to requisition police assistance, should it become necessary, to execute the commission. In that event, this order shall operate as a directive to the authorities at Police Station Bhupani, Faridabad to provide all necessary assistance to ensure that the commission is properly executed.

8. The respondent, or its representatives who may be present at the site, are directed to cooperate with the peaceful execution of the commission. The learned Local Commissioner shall also execute commission peacefully without unnecessarily disturbing the legitimate business activities of the respondent.



9. *If, in executing the commission, the Local Commissioner is required to effect forced ingress into any premises, she shall be at liberty to do so.*
10. *The learned Local Commissioner may also, if she deems it appropriate, take photographs, or videograph the premises, the expenses for which would be borne by the petitioner.*

11. *The learned Local Commissioner shall be entitled to consolidated fees of Rs.1 lakh, apart from incidental expenses at actuals for executing the commission. The fees of the learned Local Commissioner shall be payable in advance of execution of the commission.”*

4. On 17.09.2024, the Local Commissioner filed the Inspection Report stating that the Order dated 31.05.2024, passed by this Court, has been violated and prima facie contempt has been committed by the Respondent. Relevant portions of the Report of the Local Commissioner reads as under:

“12. It is recorded that, at this stage, one, Mr. Nitin Bansal appeared at the subject site at 12:23 PM and started to record the Local Commission being executed. I then proceeded to enquire about his relation with the respondent and his presence at the subject site. However, he refused to answer or even stand at one place and talk. He was extremely rude and uncooperative. Therefore, the police officers intervened and asked him to behave in a proper manner. Further, the police officers asked Mr. Nitin Bansal to delete the recording taken by him and ensured the same was done.

13. *Subsequently, I was informed that Mr. Nitin Bansal is the son of the respondent, who was speaking with his Advocate telephonically. At this stage, the respondent*



requested me to speak with his counsel, i.e., Mr. Aditya Mishra (Advocate). Thereafter, I had a telephonic conversation with the counsel for the respondent and apprised him of the Court order. In response thereto, the counsel for the respondent assured that he has explained the directions of this Hon'ble Court to his clients and requested me to proceed with the execution of the Local Commission.

14. Pursuant thereto, I proceeded with the inspection and requested the respondent to produce the statement of account/books of account of M/s G&G Concrete Solutions. However, I was informed that all the statements of account/books of account are in the custody of his Chartered Accountant ("CA"), i.e., Mr. Gyan Chand Gupta.

15. It is also pertinent to mention that at this stage, Mr. Ashok Bansal, Mr. Nitin Bansal and one, Mr. Sonu Gupta became extremely aggressive on enquiring about the work, bills, statement of accounts, etc., pertaining to the business. Further, Mr. Nitin Bansal went to the extent of taking out a weapon (pistol) and keeping it on the table in the office unit at the subject premises to threaten me and create coercion. Furthermore, Mr. Ashok Bansal started to raise his voice and throw certain documents in an extremely rude manner. Thus, the police officials intervened and also took cognizance of the weapon (pistol) for further investigation, as upon enquiry it was stated by the respondent that the said weapon (pistol) is without any license. Therefore, the weapon (pistol) has been seized by the ASI and is presently in his custody for investigation."

5. The Respondent was directed to be present in Court on the next date of hearing and the matter was adjourned to 19.09.2024.



6. On 19.09.2024, considering the report of the Local Commissioner wherein the Local Commissioner has stated that during inspection, the Petitioner herein, one Mr. Nitin Bansal and Mr. Sonu Gupta were present at the time of inspection. It is stated that Nitin Bansal became aggressive and took out a weapon and kept it on the office table. This Court *vide* Order dated 19.09.2024 directed Nitin Bansal to be present in Court on the next date of hearing and also directed him to file an affidavit explaining how he could take out a firearm when the commission was being executed as per the orders of this Court. The ASI of the PS Bhupani, who was also present during the time of Commission, was also directed to be present in Court on the next date of hearing.

7. Affidavit has been filed by Mr. Nitin Bansal. In the affidavit it is stated that the pistol mentioned in the Report of the Local Commissioner is not a real firearm and in fact is an Air Gun (Toy Gun) and the same needs no license as per the prescribed Rules and Regulations. It is further stated in the affidavit that the air gun has been kept to scare animals such as monkeys and stray dogs in the premises as the factory is situated in a remote area. The affidavit further states that the air gun was lying on the table prior to the arrival of the Local Commissioner.

8. The ASI of PS Bhupani, who has accompanied the Local Commissioner, has stated that he entered the office room after the Local Commissioner and when he entered the office room, the pistol (Air Gun) was present on the table.

9. A reading of paragraphs No.12, 13 & 15 of the report of the Local Commissioner shows that Mr. Nitin Bansal took out the pistol and kept it on the table to threaten and coerce the Local Commissioner. Even assuming



that the stand of the Respondent is correct that the pistol in question was already present on the table then also, in the considered opinion of this Court, there was no necessity for the pistol to be kept on the table at the time when the Local Commissioner was visiting the premises because keeping a weapon on the table in itself is sufficient to intimidate any person. Further, the affidavit filed by Mr. Nitin Bansal states that the pistol in question is only a Toy Gun which is kept in the premises to scare animals and monkey. This Court fails to understand as to how a Toy Gun without pellets can scare animals and monkeys. Therefore, the stand taken by Nitin Saxena does not satisfy this Court at this juncture.

10. In view of the report of the Local Commissioner and the statement of the ASI of PS Bhupani, who stated that when he entered the office room, the pistol (Air Gun) was present on the table, this Court is of the opinion that *prima facie* a case of interference with administration of justice is made out which amounts to criminal contempt. Mr. Nitin Bansal has prevented an officer of the Court, who had gone for carrying her duties assigned by the Court.

11. Accordingly, the Registrar General of this Court is requested to place the records of the proceedings before the Hon'ble the Chief Justice for referring the case to the concerned Division Bench handling cases of Criminal Contempt against Mr. Nitin Bansal.

12. It is stated by the learned Counsel for the Respondent that a reply has been filed vide Diary No.4041579/2024 to answer the case of willful violation of the Orders passed by this Court. It is stated that the reply has been filed along with an application for condonation of delay.

13. Office Report indicates that the reply is under objections.



14. Learned Counsel for the Respondent is directed to ensure that the reply is placed on record before the next date of hearing.
15. List on 29.10.2024.
16. The Respondent is directed to be present in Court on the next date of hearing.

SUBRAMONIUM PRASAD, J

OCTOBER 28, 2024

Rahul