



\$~79 & 80

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

*Date of decision: 15<sup>th</sup> July, 2025*

+ **CONT.APP.(C) 6/2019**

SANJEEV SRIVASTAVA &ANR .....Appellants

Through: Mr. Rishi K. Awasthi, Mr. Piyush Vatsa, Mr. Rahul Raj Mishra and Mr. Rahul K. Gupta, Advs.

versus

ZION BIOTECHNOLOGIES PVT LTD .....Respondent

Through: Mr. Sanjeev Sindhvani, Sr. Adv. with Mr. Sanjay Dua and Mr. Gaurav Sindhvani, Advs. (M: 9811114524)

80 AND

+ **CONT.APP.(C) 7/2019**

SANJEEV SRIVASTAVA &ANR .....Appellants

Through: Mr. Rishi K. Awasthi, Mr. Piyush Vatsa, Mr. Rahul Raj Mishra and Mr. Rahul K. Gupta, Advs.

versus

JSRM ESTATES PVT LTD .....Respondent

Through: Mr. Sanjeev Sindhvani, Sr. Adv. with Mr. Sanjay Dua and Mr. Gaurav Sindhvani, Advs.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE RAJNEESH KUMAR GUPTA**

## **JUDGMENT**

**Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.
2. These appeals under the Contempt of Courts Act, 1971 (*hereinafter, 'the Act'*), have been filed by the Appellants challenging the impugned order dated 8<sup>th</sup> April, 2019 passed by the Id. Single Judge of this Court in CONT. CAS.(C) No. 221/2016.



3. The brief background of the case is that bookings were made by the Respondents- M/s JSRM Estates Pvt. Ltd. and Zion Biotechnologies Pvt. Ltd. for two flats in 'Celeste Towers'. The said project was a residential project floated by M/s Assotech Limited of which the Appellants i.e., Mr. Sanjeev Srivastava and Mr. Sandeep Jain are the Ex-Managing Director and Authorised Representative respectively.

4. For the said bookings, the Respondents had made a payment of a sum of Rs. 1 crore for each of the flats way back on 4<sup>th</sup> November, 2011 and 12<sup>th</sup> November, 2011 respectively. Flat No. 27 was allotted to M/s JSRM Estates Pvt. Ltd. and flat No. 32 was allotted to Zion Biotechnologies Pvt. Ltd. against a payment of Rs 1 crore each which was paid to M/s Assotech Limited.

5. The possession of the said flats were, however, not delivered to the Respondents which led to filing of an arbitration petition under Section 9 of the Arbitration and Conciliation Act, 1996, seeking interim relief. The disputes in the said petition were referred to mediation and a settlement agreement dated 14<sup>th</sup> July, 2015 was executed under the aegis of the Delhi High Court Mediation and Conciliation Centre. The terms of the settlement which were recorded are as under:

**Settlement Agreement in CONT.APP.(C) 6/2019**

*“9. The following settlement, has been arrived at between the Parties hereto:*

- a. The Second Party has agreed to pay to the First Party a sum of Rs. 1,34,00,032/- (Rupees One Crore Thirty Four Lakhs and Thirty Two Only) which includes service tax and interest and the First Party has agreed to receive the aforesaid amount in full and final settlement of its claims against the Second Party.*
- c. The Second Party has delivered to the First*



*Party the following post dated cheques for Rs. 1,33,71,913/-(Rupees One Crore Thirty three Lakhs and Nine hundred and Thirteen Only) which includes service tax, interest and interest drawn on Karur Vyasa Bank Ltd, the details of which are as under:-*

- i. Cheque No. 014651 dated 15.01.2016 for Rs. 20,00,000/-*
- ii. Cheque No. 014657 dated 15.01.2016 for Rs. 6,06,945/-.*
- iii. Cheque No. 014652 dated 15.04.2016 for Rs. 20,00,000/-.*
- iv. Cheque No. 014658 dated 15.04.2016 for Rs. 6,06,945/-.*
- v. Cheque No. 014672 dated 15.07.2016 for Rs. 25,00,000/-.*
- vi. Cheque No. 014659 dated 15.07.2016 for Rs 6,06,945/-*
- vii. Cheque No. 014655 dated 15.10.2016 for Rs. 17,50,000/-.*
- viii. Cheque No. 014660 dated 15,10.2016 for Rs. 6,06,945/-.*
- ix. Cheque No. 014656 dated 15.12.2016 for Rs. 17,50,000/-.*
- x. Cheque No. 014661 dated 15.12.2016 for Rs. 6,06,945/-.*

*c. The Second Party hereby undertakes to the Hon'ble Court that the aforesaid cheques shall be honoured and encashed on their respective due dates. The second party has also agreed to file a separate affidavit-cum-undertaking in this regard.*

*d. The First Party has no objection if the order dated 19.03.2015 restraining the Second Party from creating any third party rights upon the aforesaid property is modified to*



*allow the Second Party to enter into an agreement to sell with the condition that the proposed buyer would be informed in writing regarding this agreement and the orders of this Hon'ble Court and further that all the amounts received from such prospective buyer shall first be paid to the First Party towards the discharge of the liability towards him as contained in this agreement. If the second party pays the settlement amount prior to the schedule of payment made herein, the first party shall return to the second party the unused post dated cheques.*

*d. The Second Party acknowledges that in the event of dishonour of any of the above cheques, the first party shall be entitled to proceed against the second party for contempt, prosecution, execution and / or for any other proceedings available to it under law. The first party in the event of any such default, shall also be entitled to interest @ 18% per annum for delay in payment.*

*10. By signing this Agreement the parties hereto state that they have no further claims or demands against each other and all the disputes and differences in this regard have been amicably settled by the Parties hereto through the process of Mediation.*

*11. That the parties undertake to the Hon'ble Court to abide by the terms and conditions set out in the agreement and not to dispute the same hereinafter in future.”*

### **Settlement Agreement in CONT.APP.(C) 7/2019**

*“9. The following settlement, has been arrived at between the Parties hereto:*

*a. The Second Party has agreed to pay to the First Party a sum of Rs. 1,34,00,032/- (Rupees One Crore Thirty Four Lakhs and Thirty Two*



*Only) which includes service tax and interest and the First Party has agreed to receive the aforesaid amount in full and final settlement of its claims against the Second Party.*

*b. The Second Party has delivered to the First Party the following post dated cheques for Rs. 1,34,00,032/-(Rupees One Crore Thirty Four Lakhs and Thirty Two Only) which includes service tax, interest & TDS drawn on Karur Vyasa Bank Ltd, the details of which are as under:-*

- i. Cheque No. 014662 dated 15.01.2016 for Rs. 20,00,000/-*
- ii. Cheque No. 014667 dated 15.01.2016 for Rs. 6,12,005/-.*
- iii. Cheque No. 014663 dated 15.04.2016 for Rs. 20,00,000/-.*
- iv. Cheque No. 014668 dated 15.04.2016 for Rs. 6,12,005/-.*
- v. Cheque No. 014664 dated 15.07.2016 for Rs. 25,00,000/-.*
- vi. Cheque No. 014669 dated 15.07.2015 for Rs 6,12,005/-*
- vii. Cheque No. 014665 dated 15.10.2016 for Rs. 17,50,000/-.*
- viii. Cheque No. 014670 dated 15,10.2016 for Rs. 6,12,005/-.*
- ix. Cheque No. 014666 dated 15.12.2016 for Rs. 17,50,000/-.*
- x. Cheque No. 014671 dated 15.12.2016 for Rs. 6,12,005/-.*

*c. The Second Party hereby undertakes to the Hon'ble Court that the aforesaid cheques shall be honoured and encashed on their respective due dates.*

*d. The First Party has no objection if the order*



*dated 19.03.2015 restraining the Second Party from creating any third party rights upon the aforesaid property is modified to allow the Second Party to enter into an agreement to sell with the condition that the proposed buyer would be informed in writing regarding this agreement and the orders of this Hon'ble Court and further that all the amounts received from such prospective buyer shall first be paid to the First Party towards the discharge of the liability towards him as contained in this agreement. If the second party pays the settlement amount prior to the schedule of payment made herein, the first party shall return to the second party the unused post dated cheques.*

*d. The Second Party acknowledges that in the event of dishonour of any of the above cheques, the first party shall be entitled to proceed against the second party for contempt, prosecution, execution and / or for any other proceedings available to it under law. The first party in the event of any such default, shall also be entitled to interest @ 18% per annum for delay in payment.*

*10. By signing this Agreement the parties hereto state that they have no further claims or demands against each other and all the disputes and differences in this regard have been amicably settled by the Parties hereto through the process of Mediation.*

*11. That the parties undertake to the Hon'ble Court to abide by the terms and conditions set out in the agreement and not to dispute the same hereinafter in future."*

6. As per the above settlement agreements, the Respondents Zion Biotechnologies Pvt. Ltd. and JSRM Estates Pvt. Ltd. were to be paid a sum of Rs. 1,33,71,913/- and Rs. 1,34,00,032/- respectively. The cheques for the



said amount were signed by Mr. Sanjeev Srivastava and the above stated settlement agreements were signed by Mr. Sandeep Jain as an Authorised Representative.

7. However, when the said cheques were presented, they were dishonoured. Evidently, there was a clear breach of the settlement agreements and proceedings under Section 138 of the Negotiable Instruments Act, 1881 were also initiated by the Respondents.

8. In the meantime, a provisional liquidator was appointed by an order of this Court in '*Manmohan Singh Bhalla v. Assotech Limited*', *Company Petition No.357 of 2015* and a Court Commissioner was appointed to supervise the action plan submitted by M/s Assotech Limited.

9. On the strength of the said proceedings in the abovementioned Company Petition, the Appellants continued to evade payment which finally led to filing of the CONT. CAS.(C) No. 221/2016.

10. Vide order dated 8<sup>th</sup> April, 2019 passed in CONT. CAS.(C) No. 221/2016. the Id. Single Judge clearly records that assurances were given as part of the settlement agreement that the cheques were good for payment. The dishonouring of the cheques was held to be a clear breach of the directions given by the Court. The observations of the Id. Single Judge was as under:

*“Be that as it may, as noted hereinabove, the respondent is in contempt of this Court's order insofar as the aforesaid cheques were dishonoured despite the Court's order. This Court holds the respondent guilty. Let them be present in the Court on the next date for orders on punishment as may be. According to the agreement, the petitioner is also entitled to 18% interest for the delay in payment with effect from 16.01.2016. The respondent, if he so chooses, may bring a cheque of the requisite amount on the next date.*



*The learned counsel for the respondent submits that on 22.11.2016, this Court had recorded inter alia as under:*

*"Today in Court, learned counsel for respondents has handed over the following three cheques to learned senior counsel for the petitioner as part payment of the outstanding dues;-*

<i>Sl. No.</i>	<i>Cheque No.</i>	<i>Dated</i>	<i>Amount</i>	<i>Drawn Upon</i>
1.	017601	29/11/2016	Rs. 20,00,000/-	Karur Vysya Bank, Noida
2.	017602	05/12/2016	Rs. 20,00,000/-	Karur Vysya Bank, Noida
3.	017605	31/01/2017	Rs. 20,00,000/-	Karur Vysya Bank, Noida

**Learned counsel for respondent, on instruction of Mr. Sanjeev Srivastav, respondent no. 1 and Mr. Sandeep Jain, respondent no. 2 who are personally present in Court, assures this Court that the aforesaid cheques are good for payment.**

*However, learned counsel for respondent states that as a Provisional Liquidator has been appointed by the Company Court on 8<sup>th</sup> February, 2016, prior permission from the Company Court would be required.*

**Learned senior counsel for the petitioner assures this Court that without taking prior permission from the Company Court, the cheques shall not be submitted for encashment.**

**The statement made by learned senior counsel for the petitioner is accepted by this Court and the petitioner is held bound by the same.**

**List on 17<sup>th</sup> February, 2017. "**

**The aforesaid order concerns only the replaced cheques which were issued later in November/December, 2016. It does not deal with the dishonouring of the cheque dated 15.01.2016.**

*Therefore, for the aforesaid reasons, the respondent is in contempt of the court's order dated 17.07.2015.*

*Renotify on 02.08.2019."*





11. Thus, the present appeal has been filed challenging the above order dated 8<sup>th</sup> April, 2019 passed in CONT. CAS.(C) No. 221/2016.

12. At the outset, ld. Counsel for the Appellants was to satisfy this Court as to how this appeal is maintainable under Section 19 of the Act. Mr. Awasthi, ld. Counsel submits that, in fact, the Coordinate Bench of this Court has held on 9<sup>th</sup> February, 2017 that the Respondents ought to approach the Company Court or file execution proceedings for realising the money payable under the settlement agreements with the permission of the Company Court. It is, further, submitted that the contempt petition itself, therefore, is not maintainable. Hence, the order passed in such petition shall be set aside.

13. Mr. Awasthi, ld. Counsel has further argued that the Company– M/s Assotech Limited has been in liquidation since 8<sup>th</sup> February, 2016.

14. Mr. Sindhwani, ld. Sr. Counsel on the other hand has relied upon the decision in *Ajay Kumar Bhalla & Ors. v. Prakash Kumar Dixit* **MANU/SC/0829/2024** to argue that it is the settled position that only an order imposing punishment for contempt is appealable under Section 19 of the Act.

15. Heard. The present appeal shows the arduous journey that any litigant has to undertake even after the disputes are settled before the Court. Any settlement executed under the aegis of the Mediation Centre is a settlement which is binding on all the parties in terms of Section 89 of the Mediation Act, 2023 when such solemn undertakings are given before the Court. While there can be no doubt that an execution petition can be filed however, if parties have given undertakings, jurisdiction of the contempt court would not be excluded.

16. The ld. Single Judge, in order dated 8<sup>th</sup> April, 2019 passed in CONT.



CAS.(C) No. 221/2016, has rightly observed that there is dishonouring of the cheques and solemn undertakings have been violated.

17. This Court is of the view that clearly, a settlement of 2016 where a substantial amount of money had to be paid has still not reached fruition. The amounts are still due and the Appellants continue to litigate before different Courts. The company went into liquidation only on 8<sup>th</sup> February 2016. However, the settlement agreements are dated prior to the said date i.e., 14<sup>th</sup> July, 2015. Even the cheques bounced on 16<sup>th</sup> January, 2016, which is much prior to the liquidation. Thus, this argument would not be tenable. Such conduct on behalf of the Appellants cannot be ignored by this Court. Moreover, in terms of Section 19 of the Contempt of Courts Act, 1971, the present appeal itself would not be maintainable. The relevant Section is set out below:

***“19. Appeals.—(1) An appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt—***

*(a) where the order or decision is that of a single judge, to a Bench of not less than two Judges of the Court;*

*(b) where the order or decision is that of a Bench, to the Supreme Court:*

*Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.*

***(2) Pending any appeal, the appellate Court may order that—***

*(a) the execution of the punishment or order appealed against be suspended;*

*(b) if the appellant is in confinement, he be released on bail; and*

*(c) the appeal be heard notwithstanding that the*



- appellant has not purged his contempt.*
- (3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).*
- (4) An appeal under sub-section (1) shall be filed—*
- (a) in the case of an appeal to a Bench of the High Court, within thirty days;*
  - (b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.”*

18. In *Ajay Kumar Bhalla (supra)*, the Supreme Court has also held as under:

*“13. The law on the subject is settled by a judgment of a two Judge Bench of this Court in Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda<sup>1</sup>. Paragraph 11 of the decision sums up the principles succinctly as follows:*

*11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:*

*I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.*

*II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to*



**challenge under Article 136 of the Constitution.**

*III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.*

*IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of "jurisdiction to punish for contempt" and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.*

*V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).*

*The first point is answered accordingly. "*

19. In view of this position, the present appeals deserve to be rejected.



Pending applications, if any, are also disposed of.

20. The Respondents are, hence, free to pursue the contempt petition in accordance with law.

21. The Appellants shall pay a sum of Rs. 25,000/- as costs to each of the Respondents. Let the contempt petition be now listed before the concerned Bench on 7<sup>th</sup> August, 2025.

**PRATHIBA M. SINGH, J**

**RAJNEESH KUMAR GUPTA, J**

**JULY 15, 2025**

*dj/ss*