

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Contempt Case No.5/2024

Under Section 425 of Companies Act, 2013

in

Company Appeal (AT) (CH) (Ins) No.211/2024

In the matter of:

IDBI BANK LIMITED
(REPRESENTING THE SECURED
FINANCIAL CREDITORS OF
LANCO INFRA TECH LIMITED)

Having office at: NPA Management Group, 7th Floor,
IDBI Tower, WTC Complex, Cuffee Parade,
Mumbai – 400 005

...APPLICANT/APPELLANT

V

P. MANOJ KUMAR,

Having office at F-2, Second Floor,
Naina Residency, Plot No. 344,
Road No. 7, Kakatiya Hills, Madhapur,
Hyderabad 500081.

...CONTEMNOR/RESPONDENT NO. 1

BALNEEDI UMA MAHESH,

Having office at F-2, Second Floor,
Naina Residency, Plot No. 344,
Road No. 7, Kakatiya Hills, Madhapur,
Hyderabad 500081.

...CONTEMNOR/RESPONDENT NO. 2

MUKKAMALA NAGARJUNA

Having office at F-2, Second Floor,
Naina Residency, Plot No. 344,
Road No. 7, Kakatiya Hills, Madhapur,
Hyderabad 500081.

...CONTEMNOR/RESPONDENT NO. 3

KRISHNA PRAVEEN KOTA

Having office at F-2, Second Floor,
Naina Residency, Plot No. 344,
Road No. 7, Kakatiya Hills, Madhapur,
Hyderabad 500081.

...CONTEMNOR/RESPONDENT NO. 4

KRS ERECTORS PVT. LIMITED

Having office at F-2, Second Floor,
Naina Residency, Plot No. 344,
Road No. 7, Kakatiya Hills, Madhapur,
Hyderabad 500081.

...CONTEMNOR/RESPONDENT NO. 5

Present :

For Appellant : Mr. S.R. Rajagopal, Senior Advocate
For Mr. Allwin Godwin, Mr. Sagar Dhawan,
Mr. Anoop Rawat, Mr. Vimal Asthana,
Ms. Aishani Das & Ms. Niranjana Pandian,
Advocates
For Respondent : Mr. E. Om Prakash, Senior Advocate
For Mr. Ravikiran Singh & Ms. R. Moneshaa,
Advocates, For R1 & R3
Ms. Anuradha Bisani, Liquidator for R2

JUDGMENT
(Hybrid Mode)

[Per: Justice Sharad Kumar Sharma, Member (Judicial)]

Contempt Application No. 5/2024

Contempt Application No. 5/2024, has been preferred in Company Appeal (AT) (Ins) No. 211/2024. The Appellant has contended that, the Respondents, as impleaded in the contempt petition, are required to be summoned by this Appellate Tribunal, in the exercise of its powers under Section 425 of the Companies Act, 2013, to be punished for their willful disobedience of the order dated 24.06.2024, which was passed by this Appellate Tribunal in Company Appeal (AT) (CH) (Ins) No. 211/2024 whereby, this Appellate Tribunal has stayed the effect of impugned order particularly, that of para 37 & 38 as passed by Ld. NCLT. The alleged non-

compliance of the order dated 24.06.2024, has been described in Para (t) and (u) of the contempt application, which in a nutshell states that, though this Tribunal has directed the directions contained in the Para 37 & 38 of the impugned order dated 28.05.2024 as passed in IA No. 41/2024 in CP (IB) 111/07/HDB/2017, to be kept in abeyance, even after passing of this order, the Respondents herein, are deliberately breaching the order by serving legal notices for implementation of acquisition plan, which amounts to a deliberate and intentional contempt. The order of which the contempt is pleaded, has been passed, in the Company Appeal (AT) (Ins) No. 211/2024 on 24.06.2024, and it directed to keep in abeyance the contents of para 37 & 38 of the impugned order only which do not speak about or deal with any of the alleged acts of the Respondents as it has been narrated by the Applicant in para (t) & (u) of the contempt application.

2. Apart from the fact that, there is no specific set of allegations which could be determined to be derived so as to form a basis to prima facie establish the fact of the Respondents engaging themselves in a commission of a deliberate and intentional contempt, the pleadings of para (t) & (u) of the Contempt Application No. 5/2024, had been apparently denied by the reply filed by the Respondents to the Contempt Application. In para (g) and (h), of the said reply of particular relevance would be the reply given in para (h) wherein the Respondents extend the reply to the contents of para 3(u)

(v) of the contempt application. On a perusal of the replies extended by the Respondents, in fact, no case as such appears to have been made out which will amount to intentional contempt, owing to the fact, that the directions as given in para 36 & 37 of the impugned order dated 28.05.2024, there was no such directions given as such with regards to the reconstitution of the board, the contempt of which is alleged in Contempt Application No. 5/2024, except for the observation which has been made in para 38(4) of the impugned order, where it refers to a need of reconstitution of the board, directing it to be met within ten days from the date of the order, to decide the issue as regards to the process of disposal of assets within a period of three months. In fact, if the implication of para 38(4) of the order dated 28.05.2024 as passed in IA No. 41/2024 in CP (IB) 111/07/HDB/2017 is taken into consideration, the allegation of making an endeavor to reconstitute the board, as it has been pleaded by the Applicant to the contempt application in its para (t) & (u), has been specifically denied by the Respondents in their objection contending thereof, that owing to the fact that the issue has now become *sub judice*, before the Hon'ble Apex Court in C.A. Nos. 286 & 398/2024. The allegation pertaining to the reconstitution of the board, as it has been observed in para 38(4) of the impugned order dated 28.05.2024, had been specifically denied by the Respondents in their objection preferred before this Appellate Tribunal. If

the reply given in para (h) is also taken into consideration in its entirety, the allegation levelled in para (t) & (u) of the contempt application do not appear to succeed in establishing the conditions of a deliberate contempt, as against the Respondent to the contempt application. Even the Applicant to the contempt application the Appellant, has not specifically come out with the case with regards to, as to in what manner the interim order, which was granted by this Appellate Tribunal on 24.06.2024 has been flouted. Thus contempt, if any, cannot be specifically determined at this stage, except after a detailed scrutiny of the rival contentions, which is the subject matter of the company appeal itself, owing to the reply submitted in para (g) and (h) by the Respondent. Since the contempt application doesn't satisfy any element to establish the fact that the Respondent had intentionally engaged in violation of para 38(4) of the order of 28.05.2024, which has been stayed by this Appellate Tribunal, no deliberate or intentional contempt could be said to have been made out by the Respondent based on the pleadings to the contempt application, for which the contempt could be drawn. Even otherwise also, it is a settled preposition of law that for the purposes of punishing an alleged contemnor for an act of contempt, there are various pre-settled elements, which are required to be satisfied.

- (i) There has had to be a final determination of a controversy, which is statutorily deciding a right or a liability of a party.

(ii) The court should be slow in drawing the contempt proceedings as against the interim orders because they are simply an arrangement without determination on merits the right of parties, which is based upon the discretion of the court or the Tribunal to be maintained during the pendency of the main lis.

3. Apart from it, the Applicant has not made out any case where it could be conclusively concluded based on the material placed before this Appellate Tribunal that the Respondent has engaged in a deliberate and intentional non-compliance of order amounting to the commission of contempt. We feel that, this would not be a fit case in which the contempt proceedings could be drawn against the Respondent, particularly in the context of the allegation levelled without any specific material based on records pertaining to the re-constitution of the board, which is an allegation not established by records. Thus, the **Contempt Application No. 5/2024** lacks ‘merits,’ and the same is accordingly ‘dismissed’.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

28/04/2025
SN/MS/RS