

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Contempt Case (AT) No. 26 of 2019 in

Company Appeal (AT) (Insolvency)No. 577 of 2018

IN THE MATTER OF:

Mr. Manoj Kumar Agarwal

.....Appellant

Vs.

M/s Shri Mehndipur Balaji Infra Developers Pvt. Ltd.

.....Respondent

Present :

For Appellant: Mr. Ayush Sharma, Advocate

For Respondents: Mr. Surjan Singh Shekhawat, Advocate

O R D E R

02.03.2020 - Contempt Case (AT) No. 26 of 2019

Heard Learned Counsel for Appellant Shri Ayush Sharma. He has put on record a copy of the Memorandum of Settlement dated 6th February, 2019 (Diary No. 19428) because of which settlement, this Tribunal had passed orders dated 8th February, 2019 in Company Appeal (AT) (Insolvency)No. 576 of 2018 with Company Appeal (AT) (Insolvency)No. 577 of 2018 and the said appeals were dismissed in view of the settlements.

2. It is stated that in Company Appeal (AT) (Insolvency)No. 576 of 2018, the payment has been made to the Appellant in that appeal. However, in Company

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Appeal (AT) (Insolvency)No. 577 of 2018, there is default and no payment has been made.

3. The Advocate Shri Surjan Singh Shekhawat is present for the Respondents arrayed as Contemnors. Learned Counsel states that the Directors of the Company had planned to dispose some assets of the Company to clear the dues of the Appellant but have not been able to dispose the assets and thus are not in a position to pay as per 'Memorandum of Settlement' dated 6th February, 2019.

4. Learned Counsel for the Appellant states that in view of this contingency, the appeal should be restored back to its position.

5. Learned Counsel for Respondent does not object to the submission made by the Learned Counsel for Appellant to restore the original Company Appeal (AT) (Insolvency)No. 577 of 2018.

6. It appears to us that considering the settlements made, it would not benefit pushing the Contempt case against the Contemnors. We accept the submissions made by the Learned Counsel for the Appellant and the Learned Counsel for Respondents and dispose the present contempt case as closed with a direction to restore the Company Appeal (AT) (Insolvency)No. 577 of 2018 – '*Manoj Kumar Agarwal*' Vs. '*Mehndipur Balaji Infra Developers Pvt. Ltd.*', which was earlier dismissed in view of the settlement. The settlement not having been

....contd.

honoured, the present order is being passed by the consent of both sides, under Rule 11 of National Company Law Appellate Tribunal Rules, 2016, in interest of Justice.

Registry to do the needful.

The Company Appeal (AT) (Insolvency)No. 577 of 2018 be listed for 'hearing' on **27th March, 2020.**

[Justice A.I.S. Cheema]
Member (Judicial)

[Justice Anant Bijay Singh]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

ss/m

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