DINESH KUMAR GUPTA A

v.

UNITED INDIA INSURANCE CO. LTD. AND ORS.

(Civil Appeal No. 8839 of 2010)

OCTOBER 8, 2010

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[J.M. PANCHAL AND GYAN SUDHA MISRA, JJ.]

Contempt of Courts Act, 1971 – s.2(b) – Civil contempt – Alleged disobedience of Court order – Interim stay order passed by High Court in favour of Insurance Company against implementation of compensation award granted by Motor Accident Claims Tribunal (MACT) – Order not complied with – Reason for non-compliance fastened upon the appellant, who joined the High Court registry, as Deputy Registrar (Judicial), about four years after the interim order of stay had been passed – Suo motu contempt proceedings against the appellant on the allegation that he had obstructed the course of administration of justice – Justification of – Held: Not justified – On the relevant date, and even thereafter, for four years, the appellant was not functioning in the High Court in any capacity, therefore, even though the interim stay order was not complied, the reason or liability for its non-compliance cannot be fastened on the appellant –Appellant did not commit any misconduct or even unintentional disobedience of the interim order of stay – The ingredient of willful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature – Contempt of a civil nature can be held to have been made out only if there has been a willful disobedience of the order – Even though there may be disobedience, but if the same does not reflect that it has been a conscious and willful disobedience, a case for contempt cannot be held to have been made out – If an order is capable of more than one interpretation giving rise to a variety of consequences, non-compliance of the same

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A *cannot be held to be willful disobedience to constitute a case of contempt – When the courts are confronted with a question whether a given situation could be treated to be a case of willful disobedience or a case of lame excuse, it would not be legally correct to be too speculative based on assumption.*

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A Single Judge of the High Court passed an interim order of stay against implementation of a compensation award granted by the Motor Accident Claims Tribunal (MACT). The order was not complied with. The reason for non-implementation of the order of stay was fastened C upon the appellant, who joined the High Court registry as Deputy Registrar (Judicial) approximately four years after the interim order of stay had been passed. Consequently, the Single Judge of the High Court initiated *suo motu* contempt proceedings against the appellant on the D allegation that he had obstructed the course of administration of justice by ensuring that the interim order of stay should not be implemented and by shielding the MACT judge concerned, against whom vigilance inquiry had been ordered.

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Allowing the appeal, the Court

HELD:1.1. The contempt alleged against the appellant would not amount to a criminal contempt because the alleged contempt, even if made out, would clearly at the F best be of a civil nature, which is evident from Section 2 of the Contempt of Courts Act, 1971. [Para 12] [613-A-B]

1.2. The Contempt of Courts Act, 1971 postulates the existence of preconditions before a person can be held G to have committed civil contempt. Contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful

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disobedience, a case for contempt cannot be held to have been made out. In fact, if an order is capable of more than one interpretation giving rise to variety of consequences, non-compliance of the same cannot be held to be wilful disobedience of the order so as to make out a case of contempt entailing the serious consequence including imposition of punishment. However, when the Courts are confronted with a question as to whether a given situation could be treated to be a case of willful disobedience, or a case of a lame excuse, in order to subvert its compliance, howsoever articulate it may be, will obviously depend on the facts and circumstances of a particular case; but while deciding so, it would not be legally correct to be too speculative based on assumption as the Act clearly postulates and emphasizes that the ingredient of willful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature. [Paras 12, 13] [614-B-C; 615-A-E]

1.3. Taking note of a letter dated 22-12- 2005, by which the appellant, who was functioning as Deputy Registrar (Judicial) on the said date, had enquired about the case number and the date of the order which was required by the Registrar General (Vigilance), the Single Judge initiated contempt proceedings on the inference that it is the appellant who was instrumental due to which the interim order of stay passed by the single Judge way back on 22-3-2001 was not implemented. If the Single Judge had called the appellant with files and perused the same, he himself would have been satisfied that on the relevant date, the appellant was not Deputy Registrar and it was not necessary to initiate contempt proceeding against him. [Para 14] [615-G-H; 616-A-C]

1.4. The appellant was not functioning in the High Court in any capacity in the year 2001 or thereafter until

A 2005 and hence he cannot be attributed with an ulterior motive to scuttle or ensure that the interim order of stay may not be implemented as for several years thereafter, at least upto the year 2003, when the MACT Judge superannuated, the appellant was not even posted in the B High Court. Even though the order was not complied, the reason or liability for its non-compliance cannot be fastened on the appellant so as to justify initiation of contempt proceeding against him. The appellant could not have been expected to orally remember the C particulars of each and every order passed by the High Court on judicial side and sent to the registry, which was not implemented. Hence, if he wrote to the Registrar (Vigilance) seeking the case number of the pending matter as also the date of the stay order, the said letter D cannot be treated to have been written with an intention to obstruct implementation of the interim order of stay which was passed four years earlier in the year 2001. [Para 15] [616-D-H; 617-A-D]

1.5. If the single Judge of the High Court was of the E view that the interim order of stay granted by the Court on 22-03-2001 in favour of the Insurance Company staying execution of the award of compensation in favour of the claimant was obstructed, the single Judge ought to have hauled up those officers in the registry for F contempt who had been functioning in the registry at the relevant time. [Para 16] [617-D-F]

1.6. The first and foremost onus to communicate an order of stay is on the counsel or the party in whose G favour the order was passed by obtaining a certified copy of the order passed by the court and although the registry is also required to communicate the order to the court concerned where it is required to be implemented, the same essentially is in the nature of a formal communication and if the same had not been H

communicated by the erstwhile officers of the registry for any reason whatsoever, including an assumed motive of its non-implementation, a proceeding for contempt could have been initiated against the officer who was posted at the relevant time and had failed to communicate the order to the court concerned which had to implement it. But, after an unusually long lapse of time, which in this case is more than four years, an officer like the appellant who subsequently joined the registry, cannot be attributed with an oblique motive of obstructing the cause of justice merely because he had sought the case number and date of the order of stay from the Registrar (Vigilance) in order to furnish a copy of the order which was required by the Registrar (Vigilance). In fact, when the Registrar (Vigilance) sought a copy of the interim order of stay, it was his duty to specify the case number and the date of the order as it cannot be expected that the copy of the order could be sent to the Registrar (Vigilance) without the case number or its date. In any view, it would be too far fetched to infer that the same was done to shield the MACT Judge against whom vigilance enquiry was ordered, and who had already superannuated two years earlier after which the Single Judge himself had ordered for closure of the vigilance enquiry against him. [Para 17] [618-B-G]

1.7. A proceeding for civil contempt would not lie if the order alleged to have been disobeyed itself provides scope for reasonable or rational interpretation of an order or circumstance which is the factual position in the instant matter. It would equally not be correct to infer that a party although acting due to misapprehension of the correct legal position and in good faith without any motive to defeat or defy the order of the Court, should be viewed as a serious ground so as to give rise to a contempt proceeding. [Para18] [619-A-C]

A **1.8. The single Judge of the High Court inferred and assumed erroneously that the appellant had the intention to obstruct the administration of justice by being instrumental in ensuring that the interim order passed in 2001 may not be implemented oblivious of the fact that** B **the appellant was posted in the registry of the High Court only four years later in 2005 and hence non-implementation of the interim order of stay cannot be attributed to the appellant to shield the MACT Judge who had retired in the year 2003 itself against whom the** C **enquiry was ordered to be closed by the Single Judge himself. Thus, initiation of the contempt proceeding against the appellant by the single Judge is based on a wholly wrong premise based on unsustainable and unfounded facts which cannot be treated sufficient** D **material so as to initiate contempt proceeding in absence of any degree of fault or misconduct or even unintentional disobedience to the order. The impugned order passed by the single Judge by which the proceeding for contempt has been ordered to be initiated by registering a regular contempt proceeding against the** E **appellant is set aside. [Paras 20, 21] [619-H; 620-A-E]**

Ahmad Ali v. Supdt., Jail **Crl. L.J. and** *B.K. Kar vs. Hon'ble The Chief Justice and His companion Judges of the Orissa High Court,* **AIR 1961 SC 1367 – relied on.**

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State of Bihar v. Rani Sonabati Kumari **AIR 1954 Patna 513 and** *N. Bakshi v. O.K. Ghosh.* **AIR 1957 Patna 528 – approved.**

Case Law Reference:

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AIR 1987 SC 1491	relied on	Para 19
AIR 1954 Patna 513	approved	Para 19
AIR 1957 Patna 528	approved	Para 19

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8839 of 2010. A

From the Judgment & Order dated 8.12.2006 of the High Court of Rajasthan at Jaipur in SBCWP No. 1072 of 2001.

M.R. Calla, Pratiksha Sharma and Annam D.N. Rao for the Appellant. B

Aneesh Mittal, Yash Pal Dhingra and Sunil Kumar Jain for the Respondents.

The Judgment of the Court was delivered by C

GYAN SUDHA MISRA, J. 1. Leave granted.

2. This appeal by special leave has been filed against an interim order dated 08.12.2006 passed by the Jaipur Bench of the High Court of Rajasthan in S.B. Civil Writ Petition No. 1072 of 2001 whereby the learned single Judge initiated suo moto contempt proceeding against the appellant and directed issuance of notice to him after which a separate Contempt Petition was ordered to be registered against him. This initiation apparently was based on the assumption and impression gathered by the learned single Judge to the effect that the appellant had obstructed the course of administration of justice by ensuring that the interim order of stay dated 22.03.2001 passed by the learned single Judge against implementation of the award of compensation as also direction to the Registrar General (Vigilance) to initiate inquiry against the then Judge of the Motor Accident Claims Tribunal, Jaipur, be not implemented. The learned Judge further inferred that this was an attempt on the part of the appellant herein to shield the Judge of the MACT from facing the vigilance inquiry and hence contempt proceeding has been initiated against the appellant. D E F G

3. As the appellant was not a party in the writ petition in the High Court in which contempt proceeding has been initiated, he sought leave of this Court to file Special Leave H

A Petition which was granted and an order of stay against initiation of contempt proceeding was also passed by this Court on 19.01.2007.

4. The matter thereafter was heard finally at the admission stage itself with consent of the counsel for the parties. At the B outset, the appellant assailed the impugned order on the plea that he had joined as Deputy Registrar (Judicial) in the Jaipur Bench of the High Court of Rajasthan only on 05.01.2005 and the order which is alleged to have been not implemented at the instance of the appellant, is dated 22.03.2001 from which it is C clearly established that the initiation of contempt proceeding alleging non-implementation of the order dated 22.03.2001 on the face of it, was not justified at all since the communication by him to the Registrar (Vigilance) for ascertaining the number of the case as also the date of the order sheet - a copy of which D was to be sent to the Registrar (Vigilance), was the normal requirement without which the order sheet could not have been sent and hence the same would not amount to contempt of Court.

E 5. The substantial question of law therefore which emerges for determination in this appeal is whether the learned single Judge of the High Court was justified in initiating suo moto contempt proceeding against the appellant judicial officer in absence of even prima facie material to the effect that there F was at all a case of disobedience to the order of the High Court - much less wilful disobedience and whether issuance of notice to initiate contempt proceeding would be justified merely on assumption, speculation and inference drawn from facts without existence of a clear case of wilful disobedience to the order of the High Court so as to treat it as a case of contempt of Court G of civil nature.

6. The details of facts and circumstances of the matter in so far as it is essential for adjudicating the substantial question of law formulated hereinbefore are stated herein as follows:

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(i) A writ petition bearing S.B. Civil Writ Petition No. 1072 of 2001 was filed by an Insurance Company, namely, United India Insurance Company Limited challenging the award passed by the MACT, Jaipur in favour of the claimant Smt. Kaushalya Devi and others. The writ petition came up for hearing before a learned single Judge on 22.3.2001 who was pleased to admit the writ petition and issued notice to the original claimants and other respondents therein. Simultaneously, an order of stay was also passed in favour of the Petitioner-Insurance Company, directing that there shall be stay of recovery against the award dated 15.01.2001 by which compensation was awarded to the respondents/claimants therein. The learned single Judge was further pleased to direct that a copy of the said order be sent to the Registrar (Vigilance) of the High Court who shall look into the matter from the administrative side implying enquiry against the learned Judge, MACT who had passed the award in favour of the claimants/respondents. It would be appropriate to highlight at this stage that the Appellant, Shri Dinesh Gupta was not functioning as Deputy Registrar (Judicial) in the High Court on the said date in the year 2001 as he was posted as Deputy Registrar (Judicial) at Jaipur Bench in the High Court several years later on 05.01.2005.

(ii) However, during the intervening period in order to comply the order of the High Court dated 22.03.2001, the Registrar General (Vigilance) vide letter dated 20.04.2001, requested for a copy of the Memo of the writ petition and a copy of the Award of the MACT, Jaipur dated 15.01.2001 passed in Claim Petition No 1782 of 1999. In response to the same, a certified copy of the writ petition was sent by the then Deputy Registrar (Judicial) but in view of Rule 883 of The Rules of the High Court of Judicature for Rajasthan 1952, a request was made to the Registrar General (Vigilance) to obtain a copy of the

A Award from the MACT, Jaipur directly. Thereafter, the Registrar General (Vigilance) did obtain a certified copy of the MACT judgment/Award from the office of the MACT, Jaipur directly on 25.7.2001 and then vide letter dated 11.01.2002, directed the Deputy Registrar (Judicial) to B inform whether the Writ Petition bearing S.B. Civil Writ Petition No. 1072 of 2001 entitled United India Insurance Company Ltd. Vs. MACT, Jaipur and others had been disposed of or not and in case it was disposed of, a copy of the order of the Court was directed to be sent to him. C This letter was responded by the then Deputy Registrar (Judicial) who informed that the matter is pending consideration before the High Court and the next date of hearing in the matter was fixed for 05.04.2002. It was further informed vide letter dated 16.03.2002 that as and D when the matter is disposed of, the copy of the judgment would be sent to him. The Writ Petition however remained pending without further progress even upto the year 2005. Subsequently, on 31.05.2003, the then Presiding Officer of the MACT, Shri S.K. Bansal, R.H.J.S. who had passed the award of compensation in favour of the respondent- E claimant Smt. Kaushalya Devi, retired from service and matter remained sub-judice as already indicated hereinbefore.

7. The Appellant Shri Dinesh Gupta thereafter joined the F post of Deputy Registrar (Judicial) in the High Court of Judicature for Rajasthan, Jaipur Bench, Jaipur on 05.01.2005. On 09.05.2005 the Registrar General (Vigilance) vide communication dated 09.05.2005 directed the Deputy Registrar (Judicial) that the copy of the required judgment of the High G Court passed in the writ petition be sent to the office of the Registrar General (Vigilance) within 20 days. This letter, however, neither mentioned the case number nor the date of the order of the Court which was to be sent to the Registrar General (Vigilance) which would be evident from the translated H version of the said letter which reads as under:

"Ref:- Letter of this Office No. 848 dt. 28.6.04 & reminder No. 1223 dt. 4.9.04 & No.1464 dt. 8.11.04 & your Letter No.147 dt. 01.07.04.

Subject:- For sending copy of Required Judgment.

Sir

On the above subject by drawing your attention towards the referred letter, it is ordered that you please take pain to forward the copy of required Judgment to this office within twenty days from receipt of this letter compulsorily.

Yours truly,
SD/-
REG. GEN (VIGILANCE)"

The letter thus merely stated that the Deputy Registrar should take pains to forward the copy of required judgment and the same be sent to the office of the Registrar General (Vigilance) positively within 20 days of receipt of the said letter.

(i) In response to the aforesaid letter dated 09.05.2005, the appellant traced out the number of the concerned writ petition and informed the Registrar General (Vigilance) vide his response letter dated 18.05.2005 that the matter was pending consideration and as and when it is disposed of, the copy of the judgment would be sent. Six months thereafter, the Registrar General (Vigilance) again wrote a letter on 13.12.2005 that the desired judgment be sent positively within 20 days of the receipt of the letter but he again failed to indicate the number of the case in which the judgment was required by him. However, the appellant this time responded to the same by writing to the Registrar (Vigilance) vide letter dated 22.12.2005, that the writ petition entitled *United India Insurance Company Ltd. Vs. MACT, Jaipur City, Jaipur and Ors.* had been admitted in which notice had been issued and recovery of the

A amount passed by the Award of the MACT had been stayed by the High Court vide order dated 22.03.2001 but the case was still pending in the category of incomplete service matters because the notice upon the respondent Nos. 2 to 8 was not served and the next date fixed by the B Hon'ble Court was 20.02.2006.

(ii) In the meantime, the claimant Smt. Kaushalya Devi had also filed an application for vacating the order of stay passed by the High Court in the concerned writ petition i.e. C S.B. Civil Writ Petition No. 1072 of 2001 which came up for hearing before the learned single Judge on 16.10.2006. The learned single Judge on this date ordered that as the Presiding Officer Shri S.K. Bansal had retired and was no more in service, the order of the Court dated 22.03.2001 directing to conduct the enquiry by the Registrar General D (Vigilance) against the then Judge of the MACT, Jaipur be treated as closed and no further action need be taken. It was also ordered that this be brought to the notice of the Deputy Registrar (Judicial).

E 8. The matter/the writ petition thereafter came up before the Court on 08.12.2006 for considering the application of the claimant for vacating the order of stay passed by the learned single Judge on 22.03.2001. The learned single Judge on this occasion i.e. on 08.12.2006 suddenly inferred that although an F order had been passed on 22.03.2001 staying implementation of the award passed in favour of the claimant, yet the copy of the order and stay had not been sent for compliance. Hence, it was inferred by the learned single Judge that it appeared to be an attempt on the part of the Officer concerned to ensure G that the Registrar (Vigilance) should not proceed with the enquiry against the MACT Judge which had been directed by the Court on the judicial side vide its interim order of stay and direction dated 22.03.2001, and this not only amounted to contempt of the order of the Court dated 22.03.2001, but was an attempt to shield the then MACT Judge Shri S.K. Bansal H

who had passed the award and later retired from service. The learned single Judge, therefore, observed that this was an attempt on the part of the officer concerned (Deputy Registrar (Judicial)/the appellant herein) who had written the letter dated 22.12.2005 to the Registrar (Vigilance) seeking case number and date of the order which was to be sent to him due to which it was observed by the learned single Judge that it had to be taken note of seriously as it was an attempt to overreach the directions of the Court and prevent its compliance creating obstructions in the administration of justice. The learned single Judge therefore ordered to issue notice to the then Deputy Registrar (Judicial) who had sent the letter dated 22.12.2005 enquiring about the case number and the date of the order after tracing out the name and his present designation as to why contempt proceeding should not be initiated against him and he be not punished for contempt of court. The learned Judge further ordered that a separate Contempt Petition be registered and notice be issued to the contemnor making it returnable within six weeks. The writ petition was ordered to be listed a week thereafter.

9. Since, the appellant Shri Dinesh Kumar Gupta was the Deputy Registrar (Judicial) on the relevant date i.e. 22.12.2005, a contempt notice was served on him which took him by surprise as according to him, he had neither acted in any manner which could lead to obstruction to the cause of justice nor had role in any manner whatsoever to ensure that the interim order of stay dated 22.03.2001 staying execution of the award be not implemented. Since the order initiating contempt proceeding against the appellant was bound to affect him, he approached this court seeking permission to challenge the order passed by the learned single Judge initiating contempt proceeding against him by submitting that no useful purpose would be served by filing a reply to the show cause notice before the High Court as the relevant record although was before the learned single Judge, yet a proceeding for contempt was initiated against him.

A 10. On a scrutiny of the aforesaid facts, it is apparent that the learned single Judge has initiated contempt proceedings against the appellant essentially on impression and assumption that he was instrumental in ensuring that the order of stay passed in favour of the Insurance Company on 22.3.2001 B passed in S.B. Civil Writ Petition No. 1072 of 2001 was not implemented and further the letter dated 22.12.2005 by which the appellant herein as the Deputy Registrar (Judicial) had sought the case number of the writ petition for which the order sheet was to be sent, was treated as an attempt on the part of C the Deputy Registrar (Judicial) causing obstruction in the way of administration of justice. It was further inferred that he had done so in order to shield the then Judge, MACT Shri S.K. Bansal from facing the vigilance enquiry.

11. The grounds relied upon by the appellant for assailing D the initiation of contempt proceedings against him, is first of all based on the technical plea that Section 18 of the Contempt of Courts Act, 1971 has not been taken note of by the learned single Judge as in Section 2 (c) (iii), it has been laid down that every case of criminal contempt is required to be heard and E determined by a Bench of not less than two Judges, and therefore, the learned single Judge erred in passing the impugned order dated 08.12.2006 without there being any occasion for the same. The initiation of contempt proceeding was further challenged on the ground that it is the Registrar F (Vigilance) who had failed to ensure compliance of the interim order dated 22.3.2001 and the direction therein until 31.05.2003, on which date the concerned officer Shri S.K. Bansal, R.H.J.S. who passed the award had retired. Hence, the appellant who had joined the post of Deputy Registrar (Judicial) G in the High Court of Judicature for Rajasthan at Jaipur Bench, Jaipur on 5.1.2005 could have possibly no role for shielding or protecting the officer who had retired on 31.05.2003 and the enquiry against him was ordered to be closed even by the learned single Judge himself vide order dated 16.10.2006.

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12. On a scrutiny of the sequence of events narrated hereinbefore, we are clearly of the view in the first place that the contempt alleged against the appellant would not amount to a criminal contempt because the alleged contempt even if made out would clearly at the best be of a civil nature, which is evident from Section 2 of the Contempt of Courts Act 1971 which lays down as follows:

(a) "contempt of court" means civil contempt or criminal contempt;

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

(c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which-

(i) scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

On perusal of the aforesaid provision enumerated under Section 2 quoted hereinbefore, it can clearly be inferred that the initiation of contempt proceeding against the petitioner even as it stands, would not give rise to a proceeding for criminal contempt and in any event the alleged contempt cannot be stretched beyond civil contempt under the prevailing facts and circumstances of the case discussed hereinbefore. Nevertheless, it would not be correct on behalf of the appellant

A to contend that the learned single Judge was not authorised to initiate contempt proceeding against the appellant merely because he was sitting in a single Bench although he might have been in a position to notice whether the alleged action at the instance of any party or anyone else who obstructed the B cause of justice, amounted to contempt of Court of a civil or criminal nature and yet would be precluded from initiating suo moto contempt proceedings. The Contempt of Courts Act 1971 clearly postulates the existence of only the following preconditions before a person can be held to have committed C civil contempt:

"(i) There must be a judgment or order or decree or direction or writ or other process of a court; or

An undertaking given to a court;

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(ii) The judgment etc. must be of the court and undertaking must have been given to a court;

(iii) There must be a disobedience to such judgment, etc. or breach of such undertaking;

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(iv) The disobedience or breach, as the case may be, must be wilful."

Hence, it would not be right to contend that even though F the learned single Judge might have found material which persuaded him to form an opinion that a contempt has been committed, yet the learned Judge had no authority or jurisdiction to initiate a proceeding for contempt against the person who indulged in such action. Thus we find no substance in the plea which has been raised on behalf of the appellant on this count.

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13. This now leads us to the next question and a more relevant one, as to whether a proceeding for contempt initiated against the appellant can be held to be sustainable merely on speculation, assumption and inference drawn from facts and H circumstances of the instant case. In our considered opinion,

the answer clearly has to be in the negative in view of the well-settled legal position reflected in a catena of decisions of this court that contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful disobedience, a case for contempt cannot be held to have been made out. In fact, if an order is capable of more than one interpretation giving rise to variety of consequences, non-compliance of the same cannot be held to be wilful disobedience of the order so as to make out a case of contempt entailing the serious consequence including imposition of punishment. However, when the Courts are confronted with a question as to whether a given situation could be treated to be a case of wilful disobedience, or a case of a lame excuse, in order to subvert its compliance, howsoever articulate it may be, will obviously depend on the facts and circumstances of a particular case; but while deciding so, it would not be legally correct to be too speculative based on assumption as the Contempt of Courts Act 1971 clearly postulates and emphasizes that the ingredient of wilful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature.

14. In view of the aforesaid legal position, when the facts of the instant case are analyzed, it is clear that the learned single Judge had passed an interim order of stay in favour of the Insurance Company against implementation of the award passed in favour of the claimant and the said order was not complied with even upto the year 2003 and the reason for non-implementation of the order of stay was not communicated by the registry of the High Court for which the appellant-Deputy Registrar (Judicial) has been held to be instrumental. The learned single Judge further has taken note of the letter dated 22.12.2005 by which the appellant herein-Shri Dinesh Kumar Gupta, who was functioning as Deputy Registrar (Judicial) on the said date had enquired about the case number and the date

A of the order which was required by the Registrar General (Vigilance) and the learned single Judge has initiated the contempt proceedings on the inference that it is the appellant who was instrumental due to which the interim order of stay passed by the learned single Judge way back on 22.3.2001 in B S.B. Civil Writ Petition No. 1072 of 2001 was not implemented. If the learned single Judge had called the appellant with files and perused the same, he himself would have been satisfied that on the relevant date, the appellant was not Deputy Registrar and it was not necessary to initiate contempt proceeding C against him.

15. However, we cannot lose sight of the most relevant and important fact that when the interim order of stay was passed on 22.03.2001 by the learned single Judge, it was first of all the duty of the counsel for the petitioner United India Insurance D Company Ltd. or the petitioner Insurance Company itself to obtain a certified copy of the interim order of stay and then communicate the same to the Presiding Judge of the MACT who was Shri S.K. Bansal. The petitioner herein Shri Gupta admittedly was not functioning in the High Court in any capacity E in the year 2001 or thereafter until 2005 and hence he cannot be attributed with an ulterior motive to scuttle or ensure that the interim order of stay may not be implemented as admittedly for several years thereafter, at least upto the year 2003, when the MACT Judge Shri Bansal superannuated, the petitioner was F not even posted in the High Court as he was posted in the High Court, Jaipur Bench as Deputy Registrar (Judicial) for the first time in the year 2005. Hence, what transpired between the date of the order of interim stay passed in 2001 upto 2003 when the learned Judge, MACT Shri Bansal retired, no malafide or G ulterior motive can at all be attributed to the appellant herein Shri Gupta so as to initiate a contempt proceeding against him. Therefore, even though the order was not complied, the reason or liability for its non-compliance cannot be fastened on the appellant herein- Shri Gupta so as to justify initiation of H contempt proceeding against him. Hence, non-compliance of

the interim order of stay passed by the learned single Judge way back in the year 2001 which was passed much prior to 2005, when the appellant joined as Deputy Registrar (Judicial) in the High Court cannot be attributed to him. The appellant obviously could not have been expected to orally remember the particulars of each and every order passed by High Court on judicial side and sent to the registry, which was not implemented. Hence, if he wrote to the Registrar (Vigilance) seeking the case number of the pending matter as also the date of the stay order, the said letter cannot be treated to have been written with an intention to obstruct implementation of the interim order of stay which was passed four years earlier in the year 2001. Hence, it would be a wholly unfounded assumption, so as to infer that the appellant did so, to obviate or obstruct implementation of the stay order or forestall the same in any manner.

16. In our view, if the learned single Judge was of the view that the interim order of stay granted by the Court on 22.03.2001 in favour of the Insurance Company staying execution of the award of compensation in favour of the claimant was obstructed, the learned single Judge ought to have hauled up those officers in the registry for contempt who had been functioning in the registry at the relevant time and factually it was not correct for the learned Judge to assume that it was the petitioner who obstructed the administration of justice so as to justify initiation of contempt proceedings against an officer who joined five years later on the ground that he had sought the case number and the date of the order which was to be implemented in order to forestall the same when in fact it was already not implemented for a long number of years which was more than four years prior to the appellant's posting in the High Court. As already stated, an officer in the registry who joined approximately five years later prior to the interim order of stay which was passed, he cannot legitimately be hauled up for contempt merely on unfounded assumption and speculation that it was he who was instrumental in obstructing the administration

A of justice by ensuring that the order of stay may not be implemented.

17. As already observed, the first and foremost onus to communicate an order of stay is on the counsel or the party in B whose favour the order was passed by obtaining a certified copy of the order passed by the court and although the registry is also required to communicate the order to the concerned Court where it is required to be implemented, the same essentially is in the nature of a formal communication and if the C same had not been communicated by the erstwhile officers of the registry for any reason whatsoever, including an assumed motive of its non-implementation, a proceeding for contempt could have been initiated against an officer who was posted at the relevant time and had failed to communicate the order to the concerned Court which had to implement it. But, after an D unusually long lapse of time, which in this case is more than four years, an officer like the appellant who subsequently joined the registry, cannot be attributed with an oblique motive of obstructing the cause of justice merely because he had sought the case number and date of the order of stay from the Registrar E (Vigilance) in order to furnish a copy of the order which was required by the Registrar (Vigilance). In fact, when the Registrar (Vigilance) sought a copy of the interim order of stay, it was his duty to specify the case number and the date of the order as it cannot be expected that the copy of the order could be F sent to the Registrar (Vigilance) without the case number or its date. In any view, it would be too far fetched to infer that the same was done to shield the learned Judge of the MACT Shri Bansal against whom vigilance enquiry was ordered, completely missing the relevant point that he had already G superannuated two years earlier after which the learned Single Judge himself had ordered for closure of the vigilance enquiry against him.

18. Besides this, it would also not be correct to overlook or ignore an important statutory ingredient of contempt of a civil H

nature given out u/s 2 (b) of the Contempt of Courts Act 1971 that the disobedience to the order alleging contempt has to satisfy the test that it is a wilful disobedience to the order. Bearing this important factor in mind, it is relevant to note that a proceeding for civil contempt would not lie if the order alleged to have been disobeyed itself provides scope for reasonable or rational interpretation of an order or circumstance which is the factual position in the instant matter. It would equally not be correct to infer that a party although acting due to misapprehension of the correct legal position and in good faith without any motive to defeat or defy the order of the Court, should be viewed as a serious ground so as to give rise to a contempt proceeding.

19. To reinforce the aforesaid legal position further, it would be relevant and appropriate to take into consideration the settled legal position as reflected in the judgment and order delivered in the matter of *Ahmad Ali Vs. Supdt., Jail,* Crl. L.J. 1845 as also in the case of *B.K. Kar vs. Hon'ble The Chief Justice and His Companion Judges of the Orissa High Court,* AIR 1961 SC 1367 that mere unintentional disobedience is not enough to hold anyone guilty of contempt and although, disobedience might have been established, absence of wilful disobedience on the part of the contemnor, will not hold him guilty unless the contempt involves a degree of fault or misconduct. Thus, accidental or unintentional disobedience is not sufficient to justify one for holding guilty of contempt. It is further relevant to bear in mind the settled law on the law of contempt that casual or accidental or unintentional acts of disobedience under the circumstances which negate any suggestion of contumacy, would amount to a contempt in theory only and does not render the contemnor liable to punishment and this was the view expressed also in cases reported in AIR 1954 Patna 513, *State of Bihar Vs. Rani Sonabati Kumari* and AIR 1957 Patna 528, *N. Bakshi Vs. O.K. Ghosh.*

20. In the light of the aforesaid discussion, we are of the

A view that the learned single Judge inferred and assumed erroneously that the appellant had the intention to obstruct the administration of justice by being instrumental in ensuring that the interim order passed in 2001 may not be implemented oblivious of the fact that the appellant was posted in the registry B of the High Court only four years later in 2005 and hence non-implementation of the interim order of stay cannot be attributed to the appellant to shield the Judge of the MACT, Jaipur who had retired way back in the year 2003 against whom the enquiry was ordered to be closed by the learned Single Judge C himself. Thus, initiation of the contempt proceeding against the petitioner by the learned single Judge is based on a wholly wrong premise based on unsustainable and unfounded facts which cannot be treated sufficient material so as to initiate contempt proceeding in spite of absence of any degree of fault or misconduct or even unintentional disobedience to the order D for the reasons assigned hereinbefore.

21. Hence, we set aside the impugned order dated 08.12.2006 passed by the learned single Judge by which the proceeding for contempt has been ordered to be initiated by E registering a regular contempt proceeding against the appellant and the same shall be treated as dropped. Consequently, the appeal is allowed directing the parties to bear their cost.

B.B.B. Appeal allowed.