

CLCON No. 295 of 2020

Hon'ble Sharad Kumar Sharma, J.

(Via Video Conferencing)

Mr. D.K. Joshi, Advocate for the petitioners.

This is the Contempt Petition, which has been instituted by the petitioner on 28.08.2020.

When the matter was taken up today, the Court posed a question with regards to the bar created by Section 20 of the Contempt of Courts Act, which is quoted hereunder:

“20. Limitation for actions for contempt.—No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

In order to justify the reasons for filing a belated Contempt Petition, the counsel for the petitioner made a prayer that, since there was a pending review, the Contempt could not be filed earlier under an anticipation that the benefit of limitation would be available on account of the pendency of review. Another reason for explanation of delay is that, on account of Covid-19 pandemic, he has not been able to file the Contempt Petition earlier.

Both the reasons are not acceptable to the Court for the reason being that the cause to file a contempt and the period of one year of limitation would accrue from the time when there was a non-compliance and here in the present contempt, the non-compliance happens to be w.e.f. 19.06.2019. There was a sufficient time period available to the petitioner to file the Contempt by approaching this Court earlier.

The counsel for the petitioner has made a request for filing a Supplementary Affidavit, explaining the reasons for approaching the

Court at a belated stage. In the Supplementary Affidavit, this Court is of the view that, going to the circumstances and the conditions which are prevailing in the present Contempt Petition, there is no such provision under the Contempt of Courts Act, which entails the explanation of delay in filing the Contempt Petition or an explanation of delay could be elaborated by filing a supplementary affidavit as its not the limitation, which has to be explained. Once the delay is apparent on the face of it because the bar of Section 20 is created as against the Court in even initiating the proceedings not against the applicant.

Here, in the present case, the order sought to be enforced is that of 15.03.2019 rendered in Writ Petition (S/S) No. 555 of 2019. The direction given therein by the Co-Ordinate Bench of this Court was that the petitioner was supposed to serve the certified copy of the order on the respondent for its compliance within three weeks from today, today here means w.e.f. 15.03.2019. That three weeks' time would be expiring on 05.04.2019. Thereafter, within 10 weeks, it was supposed to be complied. The said period expired on 19.06.2019. Even if, one year period is to be calculated w.e.f. 19.06.2019, it would be expiring on 18.06.2020. Much period has lapsed thereafter when the Contempt Petition has been filed before this Court on 22.08.2020.

To qualify the aforesaid reason, the petitioner had argued two aspects. Firstly, that there was a pending review. It is a settled law that, mere filing of a review would not grant the benefit of laches or limitation in institution of the proceedings because the limitation would be determined from the date when the limitation expires in filing the proceedings as against the impugned action.

As far as the reason for Covid-19 is concerned, the judgment of the Hon'ble Apex Court dated 23.03.2020, I am of the view

would only apply in those cases where the provisions of Limitation Act are made applicable; but, not in a Contempt proceedings where the bar of even initiation of contempt proceedings is created against the Court and the provisions of Limitation Act are not made applicable in the said Act.

Consequently, this Contempt Petition is dismissed on the ground of being prohibited by the provisions contained under Section 20 of the Limitation Act.

Arpan

(Sharad Kumar Sharma, J.)

31.08.2020