

# HIGH COURT OF SINDH, CIRCUIT COURT AT HYDERABAD

## R.A No.283 of 2023

[Dr. Baqar General Manager Commercial & Ors. vs. M/s Shah Latif CNG Station]

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Applicants : Through Mr. Noor-ul-Haq Qureshi advocate

Respondent : Through Chaudhry Atif Rafiq advocate

Date of hearing : 12.02.2024

Date of decision : 12.02.2024

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### ORDER

**KAUSAR SULTANA HUSSAIN J.-** This appeal has been directed against the Order dated 18.09.2023 passed by learned IX<sup>th</sup> Additional District Judge Hyderabad in Civil Miscellaneous Appeal No.17 of 2023 whereby applicants, being officers/officials of OGDCL have been issued Show Cause Notice for allegedly violating the Order dated 19.07.2023, whereby parties were directed to maintain status quo.

2. Facts of the matter are that respondent – M/s Shah Latif CNG Station (Pvt) Limited had filed F.C Suit No.1025 of 2023 before learned III<sup>rd</sup> Senior Civil Judge Hyderabad (**trial Court**) against auction of sale of gas through publication/notification dated 06.07.2023 by Oil and Gas Development Company Limited (*OGDCL*). The respondent alongwith plaint of above Suit had also filed an application under Order 39 Rule 1 & 2 CPC for restraining orders. The suit is still pending, however the learned trial Court dismissed the stay application of respondent/plaintiff vide Order dated 19.07.2023 and against said interlocutory Order the respondent/plaintiff had filed Civil Miscellaneous Appeal No.17 of 2023 before learned IX<sup>th</sup> Additional District Judge Hyderabad (**Appellate Court**) alongwith an application for restraining orders and the learned appellate Court vide Order dated 19.07.2023 was pleased to direct the parties to maintain status quo. During pendency of said Miscellaneous Appeal the respondent/plaintiff filed an application for initiating contempt proceedings against the applicants, who are the officials of OGDCL, for allegedly conducting auction proceedings despite restraining orders and after hearing the parties vide impugned Order dated 18.09.2023 the learned Appellate Court had issued show cause notice to applicants, hence they have filed this Revision Application.

3. Learned counsel for the applicants submits that no contempt, as alleged, has been committed by the applicants as neither any Letter of Intent has been issued nor gas connection of the respondent/plaintiff has been disconnected and

such statement (*available at page-31 of the Court file*) has already been filed before learned appellate Court; that prior to status quo order dated 19.07.2023 since the applicants had earlier announced the date of opening of bid viz: 20.07.2023 as such only attendance of participants was marked on 20.07.2023 and no bid was opened, as alleged; that against stay order granted by the appellate Court the applicants had earlier filed Civil Revision Application No.263 of 2023 before this Court, which was disposed of on 11.09.2023 with directions to learned Appellate Court to decide the appeal within three months and the learned Appellate Court inspite of deciding the appeal has issued show cause notice to applicants in haste manner. Learned counsel while referring to statement and objections (*available at page-31 to 35 of the Court file*) filed before the appellate Court reiterated that no Letter of Intent has been issued to any party, as such question of contempt does not arise at all. He prayed that impugned order dated 18.09.2023 may be set aside and show cause notice issued by Appellate Court may be recalled.

4. On the other hand learned counsel for the respondent challenged the maintainability of Revision Application and argued that despite restraining orders the applicants had opened the bid and as such they have committed the contempt of Order passed by a competent Court of law; that only show cause notice has been issued to applicants and contempt proceedings have not yet been finalized by the learned Appellate Court as such Revision against a show cause notice, which is a lawful process, is not maintainable. Learned counsel further submits that status quo Order dated 19.07.2023 is passed in relation to the auction proceedings, which the applicants have willfully violated and proceeded to conduct the auction despite having knowledge of the Order, therefore, the learned Appellate Court after providing the opportunity to the Applicants and considering their reply had issued show cause notices; that by opening the bid the applicants had committed a clear contempt of Court as such they are liable to be taken to task and this Revision Application being not maintainable is liable to be dismissed

5. I have heard the learned counsel for the parties and have perused the material available on record.

6. At the very outset, I am of the view that the matter of contempt of Court is essentially a matter between the Court and the alleged contemnor(s). In the instant case the respondent had approached to the trial Court for declaration and permanent injunction against the OGDCL by way of civil suit with the main prayer that Notification/Advertisement dated 06.07.2023 and other publication for auctioning the sale of gas at Pasaki Gas Field Hyderabad as void and illegal. Alongwith the plaint of suit the respondent had also filed an application under Order 39 Rule 1 and 2 CPC for injunctive orders, however, the said application was dismissed by the trial Court vide Order dated 19.07.2023 and on the same day

the respondent had approached to the learned Appellate Court through Civil Miscellaneous Application No.17 of 2023 and the learned Appellate Court vide Order of even date directed the parties to maintain the status quo and then issued notices to OGDCL. On 24.07.2023 respondent had filed application for initiation of contempt proceedings against applicants, being officials of OGDCL, though the matter was already fixed for 26.07.2023 for filing of objections. The respondent alleged that applicants, being officials of OGDCL, have initiated the auction proceedings despite having knowledge of status quo order dated 19.07.2023. The applicants in denial of alleged violation filed a Statement before the learned Appellate Court, stating therein that neither gas connection of the respondent has been disconnected and respondent is obtaining the gas as per addendum-IV nor OGDCL has issued any Letter of Intent to any new bidder. The learned Appellate Court, however, without considering the said statement and/or making initial inquiry, as to the alleged violation, issued show cause notices to applicants with directions to appear before it on each and every date of hearing.

7. During course of arguments I have enquired from learned counsel for the respondent about any proof in respect of alleged contempt, who except attendance sheet dated 20.07.2023 (*available at page 149 of the Court file*), has failed to submit/show any proof which may substantiate his allegations. So far as attendance list is concerned, on enquiry, applicants' counsel stated that since the date for opening the bid was announced prior to status quo order as such only attendance of participants was marked on 20.07.2023 (*next day of status quo order dated 19.07.2023*) and no bid was opened due to restraining orders and such statement alongwith objections they have also filed before learned Appellate Court. No any other document and/or Letter of Intent has been produced by the respondent's counsel which may show that bid was opened after status quo order. Even there is no proof which may establish that notice of status quo order passed by the learned Appellate Court was served upon the OGDCL.

8. From the above discussion it seems that learned Appellate Court had passed the impugned Order in haste manner without considering the clear statement made on behalf of the of applicants and/or making initial inquiry. Accordingly the impugned Order dated 18.09.2023 is set aside and in consequence whereof the show cause notice dated 19.09.2023 issued to applicants by the learned appellate Court pursuant to impugned Order is recalled with cost of Rs.1,00,000/- to be paid by the respondent with Dispensary of this Court.

9. Above are the reasons of short order dated 12.12.2024 whereby this revision application was allowed.

JUDGE