



2025:DHC:447



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 22<sup>nd</sup> January, 2025*

CCP(O) 9/2020

IN

+ CS(COMM) 647/2019

ITC LIMITED

.....Plaintiff

Through: Mr. Jayant Mehta Sr. Adv. with  
Mr. Tanmaya Mehta, Mr. Sudeep  
Chatterjee, Mr. Rohan Swarup and  
Mr. Sanyam Suri, Advocates

versus

RAJ KUMAR MITTAL & ORS.

.....Defendants

Through: Mr. Mayank Rustagi, Mr. J. Karan  
Malhotra and Mr. Mohit Nagpal,  
Advocates for D-1/Contemnor No.2  
Mr. Pavan Malik, Advocate for  
Contemnor No. 1

**CORAM:**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**AMIT BANSAL, J. (Oral)**

**CCP(O) 9/2020**

1. This petition has been filed on behalf of the petitioner/ plaintiff under Sections 11 and 12 of the Contempt of Courts Act, 1971 for initiation of contempt proceedings against the respondents, Mr. Prem Chand Mittal (respondent no.1) and Mr. Raj Kumar Mittal (respondent no.2/ defendant no.1) for deliberate disobedience of the *ad interim* injunction order dated 28<sup>th</sup> November, 2019.



## **PREFATORY FACTS**

2. Brief facts relevant for adjudicating the present petition are set out below:

2.1. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringing the trademark/trade-dress and copyright of the plaintiff, passing off their goods as that of the plaintiff, along with ancillary reliefs for damages and rendition of accounts.

2.2. The plaintiff/petitioner is engaged in the business of manufacturing and marketing a diverse range of products and services, such as Fast Moving Consumer Goods (FMCG), hotels, paperboards and specialty papers, packaging, agri-business, information technology, etc.

2.3. Mr. Raj Kumar Mittal has been trading as Mittal Sales/ Mittal Trading Company and selling *chakki atta* since the year 2016. Mr. Prem Chand Mittal is the elder brother of Mr. Raj Kumar Mittal.

2.4. It is the case of the plaintiff/petitioner that the defendants in the suit are manufacturing and selling '*atta*'/ whole wheat flour in nearly identical and deceptively similar packaging as that of the plaintiff's '*AASHIRVAAD*' *atta*.

2.5. The suit was listed before the Court for the first time on 28<sup>th</sup> November, 2019, when an *ex parte ad interim* injunction order was passed in favour of the plaintiff/petitioner. Further, four Local Commissioners were appointed to visit the premises of the defendants in the suit.

2.6. Pursuant to the said order, Ms. Latika Malhotra, Advocate, appointed as a Local Commissioner visited the premises of Mr. Raj Kumar Mittal/defendant no.1 located in Gurugram, Haryana along with the plaintiff's counsel, other representatives of the plaintiff and a photographer.



2.7. Subsequently, the Local Commissioner filed a report dated 19<sup>th</sup> December, 2019. In her report, the Local Commissioner has stated that she visited the premises of Mr. Raj Kumar Mittal on 7<sup>th</sup> December, 2019 (hereinafter 'said premises'). At the said premises, Mr. Prem Chand Mittal introduced himself as the brother of Mr. Raj Kumar Mittal. It is also stated that Mr. Prem Chand Mittal refused to accept the service of the Court order as well as plaint paper book even though he took photographs of the order and sent the same to his Advocate on WhatsApp. The report also states that Mr. Prem Chand Mittal did not cooperate in the proceedings and created several hindrances in identification of the infringing products/packaging at the said premises.

2.8. Mr. Prem Chand Mittal also directed all the workers present at the said premises to lock the premises and pull down the shutters and hence caused obstruction in the carrying out of the Commission. The relevant extracts from the report of the Local Commissioner are set out below:

*“Mr. Prem Chand Mittal misbehaved completely and ordered the workers to pull the shutters down of the premises where packaging was being done and locked out the Local Commissioner and the team alongwith the counsel for the plaintiff for approximately 10 minutes. On seeing the same happening the police personnel who were already outside the premises as they were departing in their vehicle, made Mr. Prem Chand Mittal unlock the premises for further inspection. Thereafter, Mr. Prem Chand Mittal engaged in physical fights, hand frisking as well as assaulting the team of Local Commissioner and humiliated, disregarded and insulted the Local Commissioner along with the plaintiff's counsel and the photographer in addition to behaving in the most undignified manner.”*



2.9 Along with her report, the Local Commissioner has also filed certain videos to show the conduct of Mr. Prem Chand Mittal.

2.10 It is also stated in the report of the Local Commissioner that during the execution of the Commission, the Local Commissioner found the following infringing products at the said premises:

- “• 235 packets of 5 kg
- 80 packets of 10 Kg
- 128 empty packets of 10 Kg
- 609 empty packets of 5 Kg
- Approx. 32,500 empty packets of 5Kg/10 Kg (specific number of which could not be counted since they were locked inside a gate, image attached as **Document 3**)”

3. Accordingly, the plaintiff/petitioner filed the present petition on 28<sup>th</sup> February, 2020 seeking initiation of contempt proceedings against Mr. Prem Chand Mittal and Mr. Raj Kumar Mittal (collectively referred to as respondents).

### **PROCEEDINGS**

4. Notice in the present petition was issued on 2<sup>nd</sup> March, 2020 to both the respondents and the same was accepted in Court on behalf of Mr. Raj Kumar Mittal.

5. On 7<sup>th</sup> November, 2020, a joint reply was filed on behalf of the respondents to the contempt petition wherein an unconditional apology was tendered on behalf of the respondents. In the said reply, certain explanation and justification were given by the respondents.

6. Though the reply was stated to have been filed on behalf of the respondents it was only supported by the affidavit of Mr. Raj Kumar Mittal.

7. Subsequently, *vide* order dated 20<sup>th</sup> January, 2023, notice was accepted



on behalf of Mr. Prem Chand Mittal. By the said order, Mr. Prem Chand Mittal was directed to remain present in Court on the next date of hearing.

8. On 3<sup>rd</sup> March, 2023, Mr. Prem Chand Mittal was present in Court and the Court directed him to file a separate reply once he receives a copy of the video of the Commission from the counsel for the petitioner. The Court also directed the petitioner's counsel to provide unedited video/video content of the execution of the Commission as provided by the Local Commissioner.

8.1 In this view of the matter, Mr. Prem Chand Mittal was directed to be present on the next date of hearing as well.

9. On 3<sup>rd</sup> March, 2023, the petitioner's counsel also informed the Court that the Local Commissioner had recovered large quantities of impugned packaging which were handed over on *superdari* and the petitioner apprehends that the same have been used by the respondents.

10. Accordingly, Mr. Raj Kumar Mittal was directed to file an affidavit confirming that the packaging which was seized by the Local Commissioner was still available with him and there has been no pilferage.

11. In order to secure the presence of Mr. Raj Kumar Mittal, this Court *vide* order dated 23<sup>rd</sup> May, 2023 issuedailable warrants for an amount of Rs. 50,000/-.

12. A reply was filed on behalf of Mr. Prem Chand Mittal on 25<sup>th</sup> July, 2023 in compliance with the directions issued by this Court on 3<sup>rd</sup> March, 2023.

13. In the order passed by this Court on 17<sup>th</sup> October, 2023, it was noted that Mr. Prem Chand Mittal in his reply had made serious allegations about connivance between the Local Commissioner and Mr. Raj Kumar Mittal.



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14. The order passed by this Court on 13<sup>th</sup> December, 2023 recorded that a fresh affidavit was filed on behalf of Mr. Prem Chand Mittal on 22<sup>nd</sup> November, 2023, expressing contrition for levelling allegations against the Local Commissioner in the reply filed by him. However, the Court noted that no contrition was expressed in respect of allegations made against the Local Commissioner with regard to tampering of videography evidence. Accordingly, counsel for Mr. Prem Chand Mittal was asked to file a fresh reply after removing all such allegations against the Local Commissioner.

15. Since no affidavit was filed on behalf of Mr. Prem Chand Mittal in terms of the order passed on 13<sup>th</sup> December, 2023, this Court *vide* order dated 10<sup>th</sup> January, 2024 directed both the respondents to remain present on the next date of hearing.

16. On 18<sup>th</sup> January, 2024, an amended reply was filed on behalf of Mr. Prem Chand Mittal. In the said reply, a justification for the missing goods was given by him on account of a family dispute between the respondents and another brother of the respondents, Mr. Radhey Shyam Mittal.

17. In the order passed by the Predecessor Bench on 1<sup>st</sup> August, 2024, Mr. Prem Chand Mittal submitted that he was not in possession of the products seized by the Local Commissioner during the execution of the Commission. In light of the same, Mr. Prem Chand Mittal was directed to file a fresh affidavit. Further, bailable warrants were issued for production of Mr. Raj Kumar Mittal due to his repeated non-appearance in the matter.

18. In the affidavit filed on behalf of Mr. Prem Chand Mittal on 8<sup>th</sup> October, 2024, it was stated that he was not in possession of the products which were seized by the Local Commissioner. Mr. Prem Chand Mittal had put the



liability to explain the absence of these products on Mr. Raj Kumar Mittal.

19. In the affidavit filed on behalf of Mr. Raj Kumar Mittal on 23<sup>rd</sup> October, 2024, he comes out with another version that the seized products were handed over to him by his brother Mr. Radheyshyam Mittal in January-February, 2024. Paragraphs 4 and 5 of the said affidavit are set out below:

*“4. I state that I was handed over the seized products by my brother Sh. Radheyshyam Mittal in the month of January-February, 2024 in the manner as under:*

<b>S. N.</b>	<b>Size of Packaging</b>	<b>Quantum</b>	<b>Status</b>
1.	5 Kg	2852 (Approximately)	Empty packaging
2.	10 Kg	4176 (Approximately)	Empty packaging

*5. I state that I have personally retained the aforesaid impugned packaging upon receipt of the same from Mr. Radheyshyam Mittal and have kept in room/guard-room at the same premises being Gali No.8, Behind Kadipur Industrial Area, Basai, Gurugram, Haryana.”*

20. In view of the aforesaid, Mr. Jayant Mehta, Senior Counsel appearing on behalf of the petitioner submits that the respondents have taken the Court for a ride. The respondents have misbehaved with the Local Commissioner and obstructed the proceedings of the Commission. Further, they have also tampered with the goods that were seized by the Local Commissioner. Hence, they are guilty of having committed contempt under Contempt of Courts Act, 1971.

### **ANALYSIS**

21. I have heard the counsel for the parties and also gone through the record of the case including the various reply(ies)/affidavit(s) filed on behalf of the



respondents from time to time. It emerges from the perusal of the aforesaid material that the respondents have constantly been taking inconsistent stands in order to explain their non-compliance of the interim injunction order passed by this Court on 28<sup>th</sup> November, 2019.

22. The respondents have constantly sought to pass the buck from one to another and subsequently to another brother of theirs who is not a party in the proceedings. The explanation given by the respondents does not inspire confidence.

23. Insofar as the misconduct during the proceedings conducted by the Local Commissioner is concerned, I have carefully perused the report of the Local Commissioner as well as the videos filed with the said report.

24. In my considered view, there is no doubt in my mind that Mr. Prem Chand Mittal caused all sorts of hindrances in the execution of the Commission and also intimidated the Local Commissioner.

25. The Supreme Court in ***Balwantbhai Somabhai Bhandari v. Hiralal Somabhai Contractor (Deceased) rep. by Lrs. and Others***, 2023 SCC OnLine SC 1139, has discussed the ingredients necessary to establish contempt of court:

*“40. The object of the discipline enforced by the court in case of contempt of court is not to vindicate the dignity of the court or the person of the Judge, but to prevent undue interference with the administration of justice.*

*41. Any interference with the course of justice is an affront to the majesty of law and the conduct of interference is punishable as contempt of court. Public interest demands that there should be no interference with the judicial process, and the effect of the judicial decision should not be pre-empted or circumvented. (Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers Bombay Pvt. Ltd., (1988) 4 SCC 592).*



**42. If a party, who is fully in the know of the judgment/order of the Court, is conscious and aware of the consequences and implications of the order of the Court, acts in violation thereof, it must be held that disobedience is wilful. To establish contempt of court, it is sufficient to prove that the conduct was wilful, and that the contemnor knew of all the facts which made it a breach of the undertaking.**

43. The following conditions must be satisfied before a person can be held to have committed civil contempt : **(i) there must be a judgment, decree, direction, order, writ or other process of a court; (ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court; and (iii) such disobedience of the judgment, decree, direction, order, writ or other process of a court must be wilful.** [Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai, (2008) 14 SCC 561]”

44. It behoves the court to act with as great circumspection as possible, making all allowances for errors of judgment. It is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemnor must be punished. Punishment under the law of contempt is called for when the lapse is deliberate and in disregard of one's duty and in defiance of authority. Contempt proceedings are quasi-criminal in nature, and the standard of proof is the same as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights, including benefit of doubt. [Kanwar Singh Saini v. High Court of Delhi, (2012) 4 SCC 307].

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**48. To hold a person guilty of civil contempt, “wilful disobedience” is an indispensable requirement. Whether the conduct of contemnor is deliberate and wilful can be considered by assessing the material on record and attendant circumstances.**

[Emphasis supplied]

26. In view of the discussion above, I am of the considered view that both the respondents, Mr. Prem Chand Mittal and Mr. Raj Kumar Mittal, are guilty of committing contempt of the order passed by this Court on 28<sup>th</sup> November,



2019 in terms of Section 2(b)<sup>1</sup> of the Contempt of Courts Act, 1971. However, both the respondents have expressed remorse and have tendered their unconditional apologies. Today also, both the respondents are present in Court and have apologised for their conduct. This Court is inclined to accept the apologies tendered by the respondents.

27. In these circumstances, I am not inclined to take the extreme step of awarding civil imprisonment to the respondents under Section 12 of the Contempt of Courts Act, 1971. In my view, the ends of justice would be served if both the respondents are directed to pay fine/penalty of substantial amounts.

28. Accordingly, the following directions are issued:

- (i) Mr. Prem Chand Mittal shall deposit a sum of ₹5,00,000/- with the Delhi High Court Legal Services Committee within a period of four (4) weeks from today.
- (ii) Mr. Raj Kumar Mittal shall deposit a sum of ₹3,00,000/- with the Delhi High Court Legal Services Authority within a period of four (4) weeks from today.
- (iii) An affidavit of compliance shall be filed by the respondents within six (6) weeks from today.
- (iv) Mr. Prem Chand Mittal shall also file an affidavit of unconditional apology for his conduct towards the Local Commissioner within one (1) week from today.

29. It is made clear that the aforesaid fine has been imposed on the

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<sup>1</sup> **2. Definitions.**—In this Act, unless the context otherwise requires,—

(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;



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respondents on account of them having been held guilty of having committed contempt. This would have no bearing in the final adjudication of the suit including quantification of damages and costs.

30. Accordingly, the contempt petition stands disposed of.

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31. List on 23<sup>rd</sup> April, 2025.

**AMIT BANSAL, J**

**JANUARY 22, 2025**

**ds**