

IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD

**CONTEMPT PETITION NO. 171 OF 2007
IN
CIVIL APPLICATION NO. 554 OF 2003
IN
SECOND APPEAL NO. 54 OF 2003**

Smt. Pushpalata W/o Subrao Kokate ... Petitioner

Versus

The State of Maharashtra
& others ...
Respondents

.....
Mr. Anjankya Kale, Advocate holding for
Mr. S.B. Talekar, Advocate for petitioner
Mr. S.A. Ambad, AGP for respondent No. 1
Mrs.C.S. Deshmukh, Advocate for respondent Nos. 2, 3 & 4
.....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 30th MARCH, 2015

PER COURT :

1. Issue raised is as regards the non-compliance of the order dated 12-03-2003, passed by this Court in Civil Application No. 554 of 2003.

2. The order dated 12-03-2003 at issue reads as under :-

“ Heard Mr. S.M. Vibhute, Advocate holding for Mr. S.B. Talekar. The learned counsel for the applicant and Mr. N,R, Challani the learned Advocate for the respondent Nos. 1 to 5.

The Second appeal preferred by the applicant has been admitted. Interim relief in terms of prayer clause (A) granted till disposal of the appeal.

Application is disposed.

Dt. 12/03/2003

Sd/-
Section Officer

Sd/-
Deputy Registrar

3. The petitioner's grievance was that respondent Nos. 2, 3 and 4 have created third party interest on 30-12-2006. Now, the petitioner is said to have passed away. Legal heirs have not been brought on record. The learned Advocate who appeared on behalf of respondent Nos. 2, 3 & 4 in Civil Application No. 554 of 2003, has also passed away.

4. Respondent Nos. 2, 3, and 4 have filed their affidavits. It is stated that the learned Advocate was representing Bhagaji Kisan, who was the father-in-law of respondent No. 2. He used to prosecute the proceedings and the litigation. The respondents were minors. The knowledge as regards the order dated 12-03-2003 was limited to the learned Advocate who appeared for the parties for respondent Nos. 2, 3 & 4. The answering respondents had no knowledge about the said order.

5. An apology has been tendered stating that they had no desire to disobey the orders of any Court. Since they were unaware about the said orders, it could not be contended that they have willfully, deliberately and intentionally disobeyed the said order.

6. The respondents further submit that they would not have sold out the property, had they had the knowledge of the order dated 12-03-2003.

7. The respondents have relied upon the judgment of the Hon'ble Supreme Court in the matter of *Suresh and others Vs. Imran Khan and others*, 1995 Supp (3) 306 to support the contention that the disobedience of an order of injunction can be held to be a willful breach of the order, only if it is demonstrated that the concerned litigant was proved to have the knowledge about the passing of the order. The concerned Advocate should convey the order to the litigant.

8. Taking into account the apology tender as well as the contentions set out in the affidavits in reply, coupled with the fact that the petitioner is no more, I do not find that the contempt petition needs to be kept pending.

9. In the light of the above, this petition is disposed off by accepting the apology tendered by respondent Nos. 2, 3 and 4.

(**RAVINDRA V. GHUGE, J.**)