

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CONTEMPT PETITION NO.573/2014

Uttam Ambadas Rai (Kalal) ... Petitioner

Vs.

Yogesh Navinchandra Rai & Ors. ... Respondents

Mr. Sachin Gite for the Petitioner

Mr. P S. Dani, Senior Advocate i/b. Jui A. Nerurkar for the Respondent
Nos.1 to 3.

CORAM : K. K. TATED, J.

DATE : JULY 20, 2015

PC.:

1. Heard. This contempt petition is preferred by the Plaintiff stating that the Respondent Defendant violated the order dated 24/01/2011 passed by this court in Civil Application No.4255/2011 by creating third party right, title and interest in respect of the suit property i.e. Plot No.64, situated at Mahatma Nagar, within the limits of Nasik Municipal Corporation.

2. This court, on 24/01/2011 granted ad-interim relief in terms of prayer clause (a) of the Civil Application No.4255/2010 subject to the Respondent Defendant should not create third party interest in any manner whatsoever in respect of the suit property. Prayer clause (a) of the Civil Application reads thus:

“(a) Pending the hearing and final disposal of the present First Appeal, the effect, operation and/or execution and/or implementation of the Judgment and Decree passed by the learned 6th Jt. Civil Judge, Senior Division, Nashik in Special Civil Suit No. 351/2002 dated 21/08/2010 be stayed.”

3. The learned counsel for the Petitioner submits that the Respondent created third party right by allowing some other person to carry on business in the name of “City Car” which deals in the business of second hand car dealership. He submits that inauguration of the said business was held somewhere in the year 2014. In this way, the Respondent Defendant violated the order dated 24/01/2011 passed by this court.

4. The learned counsel for the Petitioner further submits that the Respondent constructed fabricated frames to put hoardings in the suit premises and has leased out those hoardings to different businessmen from March 2014. According to the Plaintiff, those hoardings were leased out to Tejaswini Jewelers, Samrat Construction Group, VLCC & Limelight Collection. The learned counsel for the Petitioner submits that in this way, the Defendant violated the order passed by this court. In support this contention, the learned counsel for the plaintiff relies on paragraph 5 and 6 of the Contempt Petition.

5. On the other hand, the learned senior counsel for the Respondent Defendant vehemently opposed the Contempt Petition. They filed Affidavit-in-Reply dated 10/02/2015 denying these facts. The learned senior counsel for the Respondent submits that the license issued by the Corporation under Shop and Establishment Act in respect

of the Samruddhi City Cars is in the name of Respondent No.1 as well as Respondent No.2 and they are doing business. He further submits that the Respondents are doing the business of advertising in the name of Samruddhi Advertising Co. Even the Shop and Establishment License is in the name of Respondent - Defendant only. Hence, there is no question of creating any third party right, title and interest in respect of the suit property. Hence, there is no substance in the petition. Same to be dismissed.

6. Heard the learned counsel for the parties at length. The main contention of the Petitioner Plaintiff is that the Respondents, in violation of order dated 24/01/2011 started business in the name of City Cars as well as business of hoarding. It is to be noted that as per the Affidavit-in-Reply filed by the Respondent, both Shop and Establishment licenses are in the name of Respondent and they are doing business. That itself shows that there is no violation of order dated 24/01/2011.

7. Hence, I do not find any substance in the Contempt Petition. Same stands rejected.

JUDGE