

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 393 OF 2015

M/s. Vita Private Ltd. & Anr. ... Petitioners
Vs.
Life Insurance Corporation of India & Ors. ... Respondents

Mr. Prakash Mahadik, Advocate for the petitioners.

Mr. Shrinivas Bhavé a/w. Ms. Aarti Kulkarni, Advocate for the respondents.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **29th SEPTEMBER, 2015**

P.C.:

This Contempt Petition is directed against the order dated 8th January, 2015 passed by the Judge of the City Civil Court, Mumbai thereby directing the respondent no. 1 to refund Rs. 5,00,000/- after furnishing solvent surety of Rs.5,00,000/-. The petitioners were occupying the premises of the respondents, therefore, the respondents filed Eviction proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 before the Estate Officer and by an order dated 27th March, 2012, the petitioners were evicted. The petitioners filed Miscellaneous Appeal No. 47 of 2012 before the City Civil Court challenging the order of the Estate Officer and the Appeal came to be dismissed by an order dated 29th January, 2013. Being aggrieved by the said order, the petitioners preferred Writ Petition No. 2628 of 2013 before the High Court and the High Court by its order dated 20th June, 2014

allowed the Writ Petition on the basis of the decision of the Hon'ble Supreme Court in Dr. Suhas H. Pophale vs. Oriental Insurance Company Ltd. and its Estate Officer, reported in (2014) 4 SCC 657 and thereafter the petitioners moved Miscellaneous Application No. 8 of 2014 before the City Civil Court in which the impugned order dated 8th January, 2015 directing the respondent no. 1 to refund an amount of Rs.5,00,000/- was passed. The said amount of Rs.5,00,000/- was ordered to be deposited towards the part of damages by an order dated 9th May, 2012 of the learned Judge of City Civil Court. As the amount was not refunded, the petitioners filed this Contempt Petition.

2. The learned counsel for the respondents has submitted that the order passed by this Court in Writ Petition No. 2628 of 2013 was challenged in Special Leave Petition and the Hon'ble Supreme Court allowed the SLP and referred the said matter to three Judges Bench to decide the issue finally. Thus, the matter is pending before the three Judges Bench. He further submitted that interlocutory application was also referred to three Judges Bench before the Hon'ble Supreme Court. Thus, this issue is pending before the Hon'ble Supreme Court.

3. In view of this, it is clear that it is not a willful disobedience falling

under the Contempt of Courts Act. Hence, Contempt Petition is dismissed. However, as per the submissions of learned counsel for the petitioners, the petitioners have furnished a solvent surety of Rs.5,00,000/- in the form of fixed deposit. The petitioners are allowed to file an application before the Civil Court and the said amount in the fixed deposit is allowed to be withdrawn after hearing the respondents.

(MRIDULA BHATKAR, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.