

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.69 OF 2014
IN
CHAMBER SUMMONS (L) NO.53 OF 2014
IN
WRIT PETITION NO.571 OF 2014

Ajay Singh Kundliwala Petitioner
(original Applicant/Intervenor in CHSL No.53/2014)

V/s
Rajesh Chapshi Gala Respondent/Contemnor
(original Petitioner in WP No.571/2014)

Mr. Devmani Shukla for Petitioner/original Applicant/Intervenor.
Mr. Chirag Shah for Respondent/Contemnor/original Petitioner.

CORAM : A.A. SAYED, J.
DATED : 17 FEBRUARY 2015

P.C.

1 The Contempt Petition alleges breach of the order dated 17 April 2014 passed by this Court (Coram: N.M. Jamdar, J.) in Chamber Summons (L) No.53 of 2014. The said order reads as follows:

“Not on board. Taken on board, during the hearing of the petition.

2. The learned counsel for the applicant in chamber summons states that the applicant is a complaint on whose complaint action has been taken against the petitioner. Without going to the merits of this claim and because of chamber summons has been filed, the learned counsel for the petitioner without prejudice to the rights and contention states that the notice intimating particulars of the suit proposed to be filed will be given to the applicant.

3. Chamber summons is disposed of.”

2 It is the case of the Petitioner (original Applicant/Intervener in Chamber Summons No.53 of 2014) that despite aforesaid order, Respondent Contemnor did not comply and willfully disobeyed the said order since the Respondent Contemnor has not given any notice, as required to be given before filing of the Suit No.5936 of 2014 before the City Civil Court or the filing of the A.O. No.562 of 2014 before this Court. In the City Civil Court proceeding, the Court did not grant any ad-interim reliefs pursuant to which an AO was filed in the Court against rejection of the ad-interim relief. It is averred in the Contempt Petition that the Petitioner got this information from the website of this Court as well as from the Corporation. The Petitioner therefore, prays that the Respondent Contemnor ought to be dealt with severely as he has committed contempt of the order dated 17 April 2014.

3 An Affidavit-in-Reply has been filed on behalf of the Respondent Contemnor wherein in para 1 itself Respondent Contemnor has tendered unconditional apology. In the said Affidavit-in-Reply in paras 10 and 11 the Respondent Contemnor has stated as follows:

“10. I say that my Advocate in Appeal from Order No.562 of 2014, was served with the copy of the present Contempt Petition on 30th June, 2014. I say that I was not aware about the other order passed on 17th April, 2014 in the Application filed by the Petitioner. I say that I was not informed by my erstwhile Advocate that the Hon'ble High Court by separate order have directed me to inform about the filing of the Suit in the City Civil Court. I say that the said

Advocate Mr. J.K. Bhatia did not inform me about the said order nor gave me a copy of the said order dated 17th April, 2014, which is annexed at page 20 of the Petition.

11. I say immediately upon knowing about the said order, I have immediately added the Petitioner as the party Respondent in the Appeal from Order. Hereto annexed and marked Exhibit A is the copy of the order 3rd July, 2014.”

4 An Affidavit-in-Rejoinder has been filed on behalf of the Petitioner disputing the facts stated in the Affidavit-in-Reply.

5 Having considered the above contentions, in my view, the explanation of the Respondent Contemnor that since there were two orders passed on 17 April 2014 and that he was not informed by his Advocate of the order of which breached is alleged is a plausible explanation. It is also noticed that the Respondent Contemnor has taken steps and has added the name of the Petitioner in the Appeal from Order filed by him in this Court on coming to know of the said order.

6 In these circumstances, while taking the unconditional apology of the Respondent Contemnor on record, I am inclined to dispose of the Contempt Petition. It is accordingly ordered.

(A.A. SAYED, J.)