

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION N. NO.9/2014

IN

CONTEMPT PETITION NO.58/2013

IN

APPEAL AGAINST ORDER NO.163/2011

Ashok s/o Babulal Agrawal

...Versus...

Kantilal Sakharam Parikh and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.R. Deshpande, Advocate for petitioner
Shri Rohit Deo, Advocate for respondent nos.1 and 2
Shri A.A. Gupta, Advocate for respondent no.3

CORAM : Z.A. HAQ, J.

DATE : 02.02.2015

The present application is filed by the petitioner seeking permission to implead the purchasers of the suit property as respondents to the contempt petition.

The grievance of the petitioner in the contempt petition is that the respondent nos.1 and 2 have sold their property in wilful disobedience of the restraint order passed by this Court in Appeal Against Order No.163/2011 on 22.12.2011.

Shri Deshpande, the learned Counsel for the petitioner submits that after the order was passed by this Court on 22.12.2011, the petitioner and the respondent nos.1 and 2 entered into compromise before the trial Court in Special Civil Suit No.29/2011 by filing the terms of compromise dated

16.3.2012 which are accepted by the trial Court and a compromise decree is drawn on 26.9.2012. It is submitted that as per the terms of compromise, the respondent no.3 – Bank was required to sell the property by auction and out of the amount received by the respondent no.3 – Bank, an amount of Rs.50,00,000/- was to be paid to the petitioner, however, the respondent nos.1 and 2 have sold the property on 14.1.2013, contrary to the terms of compromise. The proposed parties have purchased the property from the respondent nos.1 and 2. It is submitted that the purchasers could not have purchased the property in view of the restraint order passed by this Court on 22.12.2011, restraining the respondent nos.1 and 2 from selling the property.

The petitioner, has, nowhere stated in the civil application that the proposed parties i.e. the purchasers were having knowledge about the injunction order passed by this Court on 22.12.2011.

In view of this, in my view, it cannot be said that the proposed parties – purchasers are liable for any action for the wilful disobedience of the order passed by this Court on 22.12.2011.

The civil application is dismissed.

JUDGE

Wadkar