

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT APPEAL NO. 2 OF 2007

IN

CONTEMPT PETITION NO. 98 OF 1986

AND

CIVIL APPLICATION NO. 34 OF 2005

ALONG WITH

CIVIL APPLICATION NO. 2 OF 2007

IN

CONTEMPT APPEAL NO. 2 OF 2007

Dawoodali R. Versi

...Appellant

Versus

Godilal Dhanrupji Shah & Ors.

...Respondents

None for the Appellant.

Mr. Makarand Kale, i/b M/s. M.P. Vashi & Associates, for
Respondents.

CORAM : A.S. OKA &
A.A. SAYED, JJ.

DATE : 28th June 2016

PC. :

1. As the Advocate for Appellant is no more, notice was
issued to the Appellant. The office remark shows that the notice is

returned unserved with the remark that the 'Appellant was not found at the address mentioned in the cause title. Hence, notice has been pasted.' None appears for the Appellant.

2. This is an Appeal purporting to be one under Section 19 of the Contempt of Court Act, 1971. The order impugned is dated 12th March 2007 by which Civil Application No. 34 of 2005 preferred by the legal representatives of the 2nd Respondent in the Contempt Petition was allowed. The Application was allowed in terms of prayer clauses (b) and (c), which read thus :-

“(b) That the Court Receiver, High Court, Mumbai, who was appointed Receiver vide order dated 25.7.1986 passed by the then Justice Shri Pratap, be ordered to be discharged without passing accounts;

(c) That the monies deposited in the Court by original Respondent No. 2 towards the compensation may be ordered to be paid over to the Petitioner Nos. 4 to 8.”

3. As far as scope of Appeal under Section 19 of the Contempt of the Court Act is concerned, in the case of **Midnapore Peoples Coop Bank Ltd. & Ors. Vs. Chunilal Nanda & anr.**¹, the

¹ **(2006)5 SCC 399**

Apex Court held that the Appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, which is an order imposing punishment or penalty for contempt. It holds that an order declining to initiate the contempt proceedings or an order dropping contempt proceeding is not appealable under Section 19.

4. Looking to the nature of the impugned order, in view of the settled position of law, the Appeal is not maintainable. Accordingly, the Appeal is disposed of, as not maintainable. However, disposal of Appeal will not prevent the Appellant from adopting appropriate remedy against the impugned order dated 12th March 2007.

5. All pending Civil Applications do not survive and the same are disposed of.

[A.A. SAYED, J.]

[A.S. OKA, J.]