

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO. 16 OF 2016
IN
COMPANY APPEAL NO. 55 OF 2015
IN
CLB COMPANY APPLICATION NO. 30 OF 2013
IN
CLB COMPANY PETITION NO. 1 OF 2013

M/s. Navi Mumbai Merchants Chamber & ...Petitioners
Ors

Versus

New Bombay Merchants Common ...Respondents
Warehouse Limited & Ors

Mr. Yuvraj Mane I/b. Manilal Kher Ambalal and Co. for the
Petitioners.

Mr. Karl Shroff a/w. Ms. Shoma Maitra and Ahuramazda
Postvala I/b. Wadia Ghandy and Co. for Respondents.

CORAM: K.R. SHRIRAM, J.
DATED: 15th December, 2017

PC:-

1. The petition is filed alleging that the respondents have willfully breached the orders dated 09th October, 2015 read with order dated 18th December, 2015.

2. According to the petitioners, respondents despite being directed by this Court to give inspection of documents mentioned in the order have willfully refused to give inspection of those documents and therefore are guilty of contempt of the two orders passed by this Court.

3. Mr. Shroff, appearing for respondents states that though the petition was yet to be admitted by way of abundant caution, the respondents had filed an affidavit of one Mr. Damji Premji Shah affirmed on 10th July, 2017 to which copies of communications from respondents advocates to the advocates for the petitioners are annexed.

4. Mr. Shroff states that the petitioners should have annexed these communications to the petition but the same were suppressed. Mr. Shroff points out from the documents annexed to the affidavit that respondents have given inspection of all the documents and if at all petitioners still feel that some documents have not been given inspection of, respondents do not have those documents. Mr. Shroff states that when respondents do not have certain documents how could the respondents be accused of willful disobedience of the orders of this Court.

5. On this aspect, I would agree with Mr. Shroff. It will however be clarified that in the proceedings before the NCLT now, respondents will not be permitted to rely on any documents of which inspection in compliance with the two orders dated 09th October, 2015 and 18th December, 2015 is not given.

6. It is also further clarified that if there are documents which cannot form part of documents covered by the order dated 09th October, 2015 and 18th December, 2015, NCLT may consider to permit the respondents to rely upon them or otherwise. This Court is not making any observations on those documents.

7. Petition accordingly stands disposed of.

(K.R. SHRIRAM, J.)