

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 414 OF 2018
IN
WRIT PETITION NO. 11029 OF 2018

Saurabh Arun Warade

.. Petitioner

Versus

Rajendra Pandit,
The Authorized Officer,
Cosmos Co-op Bank & Ors.

Contemnors /
.. Respondents

-
- Ms. Shweta K. Doshi for the Petitioner
 - Mr. Joel John Carlos a/w Mr. Yashwant Dhanegave for Respondent Nos. 1 and 2
 - Mr. Zulfikar Jariwala a/w Mr. Nitesh Menon i/by Dua Associates for Respondent No. 7
-

CORAM : K.K. TATED &
N.J. JAMADAR, JJ.

DATE : OCTOBER 12, 2018.

P.C.:

- 1.** Heard learned counsel for the parties.
- 2.** By this Contempt Petition, the petitioner is seeking action against respondent Nos. 1 and 2 i.e banks and also against respondent No. 3 - the learned District Magistrate.

3. The petitioner has made following prayers in the present petition:-

a) That this Hon'ble Court be pleased to restore the possession of the properties taken by the Contemnor No. 1 and 2 in view of the ratio laid down by this Hon'ble Court in case of **V.D. Kavatkar Vs. Fatima Huseni Radhapurwala & Ors (2007 SCC online Bom 776)**;

b) That this Hon'ble Court be pleased to take appropriate action against the Contemnor No. 3 i.e District Magistrate Pune for acting against the law laid down by this Hon'ble Court in judgment dated 13.3.2018 **M/s. Masscorp Ltd., & Anr. Vs. Cosmos Co-operative Bank Ltd., Pune in Writ Petition No. 2910 of 2018** at Exhibit - "B";

c) That this Hon'ble Court be pleased to allow this petition, try and punish Contemnor Nos. 1 and 2 officers of Cosmos Bank for acting utter disregard and defiance of the law laid down by this Hon'ble Court for their gross contempt in view of the law laid down by this Hon'ble Court in the case of **Legrand (India) Pvt Ltd Vs. Union of India & Ors., 2007 (6) Mh.L.J. 146** and evoking provisions of SARFAESI Act with ulterior motives;

d) That this Hon'ble Court be pleased to direct Contemnor Nos. 4 and 5 along with Contemnor No. 6 i.e Sr. Police Inspector Nigadi Police Station, Pune to restrain from aiding Contemnor Nos. 1 and 2 in execution of illegal order dated 14.2.2017 passed by the Contemnor No. 3 against the Judgment dated 13.3.2018 of this Hon'ble Court **M/s. Masscorp Ltd., & Anr. Vs. Cosmos Co-operative Bank Ltd., Pune in Writ Petition No. 2910 of 2018** at Exhibit -

“B”;

e) Ad-interim, interim reliefs in respect of Prayer Clause (d) above may be granted;

f) That Hon'ble Court please award cost of the petition in favour of the petitioner;

g) That Hon'ble Court pass such and further orders which may be deemed just and necessary by Court;

h) That Hon'ble Court pass any other relief as may be deemed fit in the facts and circumstances of the case be granted;

i) For costs.

4. Bare reading of the petition shows that the respondent-bank has not issued any notice to the petitioner under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, therefore, there is no question of permitting the petitioner to file the present Contempt Petition at all.

5. Considering the submissions made by the learned counsel for the petitioner and the averments made in the Contempt Petition, we feel that the petitioner has not made

out any case to take action against the respondents under the Contempt of Courts Act. Hence, the Contempt Petition stands rejected.

6. No order as to costs.

[N.J. JAMADAR, J.]

[K.K. TATED, J.]