

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 493 OF 2017

Atul Vasant Borikar.

..Petitioner.

Versus

Shri. A. P. Srivastav & Others.

..Respondents.

Mr. Nilesh Ojha, Mr. Vijay Kurle, Shashikala Chavhan, Shweta Doshi, Jay Shah, Aamir Kale and Tanvi Kambli for the Petitioner.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **July 27, 2018.**

P. C. :

1. Heard Mr. Ojha, the learned counsel for the Petitioner. By this contempt petition, the Petitioner is seeking contempt action against the Respondents for willful breach of the order passed by this Court in Writ Petition St. No. 26135 of 2017, being order dated 26th September 2017. Mr. Ojha submitted that in breach of the said order, Sumitra Mayur has forcibly taken charge as managing director of Providnet Fund Investment Company Limited. For convenience, the order is reproduced here :

"1. Issue notice to Respondents. The learned counsel Shri. Sarthak Diwan waives service for Respondent No.1. The learned senior counsel Shri. Kumbhakoni waives service for Respondent Nos. 2 and 3.

2. The learned senior counsel appearing for the Petitioner submitted that order passed by Respondent No. 3 is contrary to the section 196(1) of the

Companies Act, 2013. It is submitted that the Petitioner is discharging his duty as manager of Respondent No. 1. It is prayed that Petitioner be permitted to discharge his duties accordingly.

3. The learned senior counsel Shri. Kumbhakoni submitted a letter dated 06/09/2017 and submits that Sumitra Mayur took charge as Managing Director. This statement is disputed by the learned counsel for the Petitioner.

4. The learned counsel Shri. Kumbhakoni seeks accommodation for taking further instructions and calling reply, if any.

5. Stand over to 09/10/2017.

6. Parties to maintain status quo till the next date."

2. A perusal of the above order reveals that a statement of Mr. Kumbhakoni, learned senior counsel was recorded to the effect that on 6th September 2017 itself Sumitra Mayur has taken charge of the post of Managing Director of the said company. This statement was, however, disputed by the learned counsel for the Petitioner. After recording this statement, the division bench of this Court directed the parties to maintain status quo.

3. In the light of statement recorded in paragraph 3 of the said order, it cannot be said that Sumitra Mayur has forcibly taken charge of the post of Managing Director. In any event, there is dispute recording the date on which Sumitra Mayur has taken charge of the

post of Managing Director of the said company. In our considered view, the disputed questions cannot be gone into in contempt petition. The contempt petition is devoid of any merit and the same is accordingly dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]