

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
CONTEMPT PETITION NO. 2 OF 2017  
IN  
SUIT NO. 633 OF 2016**

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|--------------------|----------------|
| Satyavrat Tripathi | ...Petitioner  |
| <i>Versus</i>      |                |
| Bhavin Wadia & Ors | ...Respondents |

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**Ms Preeti Thobhani**, *for the Petitioner.*  
**Mr KG Munshi**, *with Saveena Tejpal Bedi, i/b Lawhive Associates, for Respondent No. 1.*

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**CORAM: G.S. PATEL, J**  
**DATED: 6th August 2018**

**PC:-**

1. The Petition alleges contempt of a Consent Order dated 1st June 2016. That was in two parts. One part required that the Petitioner be given credit as the producer of the film “Project Marathwada” in the theatrical release scheduled and exploitation of the film in any future medium. The second part of the minutes required the Plaintiff to make payment of an amount of Rs. 42.50 lakhs on first priority from the revenue of the film within two months. The clause also said that if the film’s revenues were insufficient then Defendants Nos. 1 and 2 were be personally liable to pay these amounts within nine months.

2. The Petition was admitted on 31st March 2017.

3. As far as the title credit is concerned, a Further Affidavit at page 91 shows that credit has been given. If the Petitioner believes that there is some version without this credit then it is for the Petitioner to show so, and this cannot be the subject matter of contempt proceedings.

4. As regards the payment clause, it is admitted that the film earned only Rs. 1.74 lakhs. The Petitioner was given a cheque for Rs. 70,000/-. I am not prepared to accept, and for more than one reason, that for the remainder there can be an order in contempt. Clause 3 would amount to saying that even if the film earned less than the projected revenue, Defendants Nos. 1 and 2 were personally liable. If this be so, then that is surely the subject matter of an execution proceeding and cannot be taken up in contempt. The other aspect is that the Consent Order is of 1st June 2016. The liability of Defendants Nos. 1 and 2, if any, is one that would arise nine months from that date. The second component thus allowed time of nine months from the date of the Consent Terms for making payment. The Petition was brought before that period and is premature.

5. In any case, while there was an undertaking contained in clause 3, I find that the order of 1st June 2016 does not accept that undertaking as an undertaking to a Court and it is settled law that this is an essential requirement when Consent Terms or Minutes are

drawn up if the undertaking is to serve as the foundation of an order in Contempt.

6. Leaving open the Petitioner's right for an appropriate proceeding including in execution, I am unable to see how there is any case made out in contempt against the Respondents. There must be a wilful default or conduct contumacious. A mere default in paying a decree is not conduct contumacious; else, every single executable decree or order would have to be enforced in contempt.

7. Having regard to this, I dismiss the Contempt Petition. The notice is discharged. No costs.

**(G. S. PATEL, J)**