

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CONTEMPT PETITION NO. 316 OF 2018

IN

WRIT PETITION NO.5304 OF 2017(D)

(M/S. CHANDAK & SONS...VS.. M/S. DR. C.P. BHARGAVA & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A. Shelat, Advocate for Petitioner.
Shri Rohit Joshi, Advocate for Respondent Nos. 1 & 2.
Shri H.V.Thakur, Advocate for Respondent No.3.

CORAM : Z.A.HAQ, J.

DATED : JULY 05, 2019.

Heard.

2. The petitioner complains that the respondents have wilfully disobeyed the orders passed by this Court in Writ Petition No. 5304 of 2017 by not handing over vacant possession of the suit premises to the petitioner immediately after three months from the date of judgment i.e. from 2nd May 2018. It is submitted that as this Court granted three months' time to the respondent to vacate the suit premises, the execution proceedings did not proceed further and after taking advantage of the fact that this Court had granted three months' time to vacate the suit premises, after three months the respondents filed objection under Section 47 read with Order 21 Rule 50 read with Section 151 of the Code of Civil Procedure in the execution proceedings, and by this the respondents aggravated the contempt.

3. Shri H.V. Thakur, Advocate appearing for the respondent No.3 and Shri Rohit Joshi, Advocate appearing for

the respondent Nos. 1 and 2 submit that the possession of the suit premises is handed over to the petitioners. This fact is not disputed by the learned Advocate appearing for the petitioners. The respondents have deposited an amount of Rs.3,00,000/- with the Registry of this Court towards arrears of rent. The petitioners claim that the respondents are liable to pay much more than Rs.3,00,000/-. The proceedings under Order 20 Rule 12 of the Code of Civil Procedure are pending before the trial Court. The issue of monetary claim of the petitioners regarding arrears of rent is not adverted to in this contempt petition.

4. As the possession of the suit premises is handed over to the petitioners and considering the nature of the order passed by this Court in Writ Petition No. 5304 of 2017, I am not inclined to keep this contempt petition pending.

Hence, notice of contempt proceedings, issued to the respondents, is recalled. The contempt proceedings are dropped. In the circumstances, there shall be no orders as to costs.

The amount deposited by the respondent No.3 be handed over to the petitioner. This amount shall be adjusted while determining the liability of the respondents to pay the amount towards arrears of rent receivable by the petitioner.

The trial Court is directed to decide M.P. Case No. 11 of 2017 filed by the petitioner till 30th March 2020.

JUDGE