

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.1181 OF 2021
IN
CONTEMPT PETITION NO.63 OF 2019**

Mr.Prajeet Budhale ... Applicant

In the matter between

Anjali Budhale ... Petitioner

V/s.

Prajeet Budhale & Anr. ... Respondents

Mr.Uday Warunjikar for the Applicant.

Ms.Kokila Kalra for the Original Petitioner.

Ms.Ketki Minhas i/b H & M Legal Associates for the Respondent No.2.

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**CORAM: MADHAV J. JAMDAR, J.
(VACATION COURT)**

**DATE : 17TH MAY. 2021
(THROUGH VIDEO CONFERENCING)**

P.C:-

1. This Interim Application is filed in Contempt Petition No.63 of 2019 by the Applicant/Original Respondent - Prajeet Budhale seeking following reliefs :

“(a) This Hon’ble Court be pleased to allow the present applicant to sell the Flat No.3B, 21, Kalpataru Aura, Opp. R. City Mall, LBS Marg, Ghatkopar (West), Mumbai 400 086 in open market within such time as this Hon’ble Court may deem fit and proper and further direct the Respondent No.1 to comply all procedure of documentation for selling of this flat.

(b) Or alternatively, be pleased to direct the respondent no.2 Bank to set a correct reserve market price of flat no.3B, 21, Kalpataru Aura, Opp. R. City Mall, LBS Marg, Ghatkopar (West), Mumbai 400 086 and thereafter allow the respondent no.2 bank to conduct auction process in respect of flat mentioned hereinabove within such time as this Hon'ble Court may deem fit and proper”.

2. The Contempt Petition is filed by the Original Petitioner – Ms.Anjali Ramnath Budhale alleging contempt of order dated 30th August, 2018 passed in Writ Petition No.9455 of 2018. The said Writ Petition was dismissed. As a result of dismissal of the said Writ Petition, this Court confirmed the order dated 18th June, 2018 passed by the learned Judge, Family Court No.3 below Exhibit-28 in Petition No.B-69 of 2017. By the said order dated 18th June, 2018, the learned Judge, Family Court No.3, Mumbai directed the present Applicant - Mr.Prajeet Budhale to clear arrears of EMI of Housing Loan borrowed by him for purchasing the suit flat and further directed to continue to pay regular EMI. By taking contention that the said order was not obeyed, Contempt Petition is filed.

3. In the Contempt Petition, learned Single Judge of this Court by order dated 18th June, 2019 directed the Petitioner – Ms.Anjali Budhale to co-operate with the bank for drawing the valuation of the property and further directed to handover peaceful possession of the flat No.21, IInd floor, B-Wing, Building No.III, Kalpataru Aura, L.B.S. Road, Ghatkopar (W), Mumbai 400 086 on or before 16th August, 2019 and further directed that the Respondent - Mr.Prajeet Budhale to pay amount of Rs.75,000/- before 10th of each month in the Petitioner's account and additional amount of

Rs.25,000/- be paid commencing from 1st August, 2019. The learned Single Judge inter alia also recorded the statement of learned Counsel for the Petitioner - Anjali Budhale that she would withdraw all proceedings against the ICICI bank before the DRT and before any other forum in the interregnum.

4. The Petitioner – Anjali Budhale challenged the said order dated 18th June, 2019 passed by the learned Single Judge in the Contempt Petition, before the Hon’ble Supreme Court and the Hon’ble Supreme Court inter alia passed the following order on 1st February, 2020 :

“The direction issued by the High Court to hand-over possession shall be complied with within four weeks from today, failing which respondent No.2-ICICI Bank will be free to proceed in accordance with law to take possession and auction the premises for recovery of the outstanding dues.”

5. The Hon’ble Supreme Court thereafter on 19th April, 2021 inter alia passed the following order :

“The concern of the bank with regard to suit property stands addressed in view of the arrangement directed by this Court in order dated 01.02.2021.

We are informed that the Bank has already taken physical possession of the property in question and is in the process of disposing of the same by conducting auction for recovery of the outstanding dues payable in connection with the said property.

In that sense, nothing more is required to be done in these petitions.

The private parties are free to pursue proceedings pending

before the High Court between them with regard to matrimonial issues. That be decided on its own merits in accordance with law.”

6. It appears that thereafter the bank has issued notice dated 7th April, 2021 under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and Rules framed thereunder. It is very clear that the dispute which is sought to be raised by the present Applicant – Prajeet Budhale cannot be raised by filing such application in Contempt Petition. The parties can approach the appropriate Court/Tribunal, if so advised. Therefore, the Interim Application is dismissed as far as prayer clauses (a) and (b) are concerned.

7. As far as other prayers in the Interim Application are concerned liberty to take out appropriate application/proceedings, if so advised. The contentions of both parties in that regard are kept open.

8. Interim Application is disposed of in above terms.

[MADHAV J. JAMDAR, J.]