

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CONTEMPT APPEAL NO.3 OF 2006
IN
CONTEMPT PETITION NO.5 OF 2005
IN
WRIT PETITION NO.2280 OF 2003 (D)

Sharad s/o Bapuraoji Deshmukh
aged about 50 years, resident of
Vaishali Nagar, Sewagram Road,
Wardha Tahsil and Dist. Wardha

... Appellant

-vs-

1. Sunil s/o Manoharrao Deshmukh,
aged 41 years, resident c/o N. M. Jagtap,
State Bank Colony, Bachelor Road, Wardha
Tahsil and District Wardha
2. The Yeshwant Education Society,
Ramnagar, Wardha, Thr. Its President
Vishwasraoji Dashrath Wadafale
3. Vishwasrao Dashrath Wadafale,
President, The Yeshwant Education Society,
Wardha, Opposite Nagar Parishad,
Hospital Road, Wardha,
Tahsil and District Wardha
4. Gunwant Janardhan Wakade,
Vice-President, The Yeshwant Education
Society Wardha, Guru Colony,
East Station Wardha, Tahsil and District Wardha
5. Manohar Ramchandrarao Nishane,
Secretary, The Yeshwant Education
Society Wardha, Kejaji Chowk, Wardha
Tahsil and District Wardha
6. Narendra Gopaldas Thute,
Joint Secretary, The Yeshwant Education
Society, Gurukul Colony,
Near East Station, Wardha,
Tahsil and District Wardha

7. Madhukar Bapuraoji Bobhate,
Treasurer, The Yeshwant Education
Society Wardha, Gond Plot, Opposite
Sukhakarta Medical, Wardha,
Tahsil and District Wardha
 8. Ashok Bhauraoji Zoting,
Director, The Yeshwant Education
Society, Pradhyapak Colony, Nandori Road,
Hinganghat, Tahsil Hinganghat, District Wardha
 9. Madhukar Mahadeorao Ladhi,
Director, The Yeshwant Education
Society, Yeshwant Adhyapak Vidyalaya,
Ramnagar, Wardha, Tahsil and District Wardha
 10. Narayan Shamraoji Satarkar,
Director, The Yeshwant Education
Society Pradhyapak Colony, Nandori Road,
Hinganghat, Tahsil Hinganghat, District Wardha
 11. Pramod Jagannathrao Dhange,
Director, The Yeshwant Education
Society, Bhamtipura, Wardha,
Tahsil and District Wardha
 12. Vasant Pandharinath Khadse,
Director, The Yeshwant Education
Society, Behind Bidkar College, Hinganghat
Tahsil Hinganghat, District Wardha
 13. Vithal Tulsiramji Kambalkar,
Director, The Yeshwant Education
Society, Behind Ramnagar, Somnathe
Layout, Wardha, Tahsil and District Wardha
 14. Suchita Bhanudasji Kanhalkar,
Director, The Yeshwant Education
Society, c.o Yeshwant Adhyapak Vidyalay,
Ramnagar, Wardha, Tahsil and District Wardha
 15. Mohan Y. Mohadure,
Principal, The Yeshwant Junior College of
Education, Ramnagar, Wardha
- ... Respondents

Shri J. S. Mokadam, Advocate for appellant.
Shri S. V. Sohoni, Advocate for respondent No.1.

CORAM : A. S. CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.
DATE : February 26, 2021

ORAL JUDGMENT : (Per A. S. Chandurkar, J.)

In writ petition No.2280/2003 this Court by order dated 26/02/2004 had directed the Management to pay arrears of salary to the petitioners in the writ petition. Since that direction was not complied with, the original petitioners filed Contempt Petition No.5/2005. In the contempt petition the petitioners impleaded 16 respondents. On 08/02/2005 the Court issued notice only to the respondent Nos.2 and 3 in the contempt petition. The present appellant was arrayed as respondent No.8 in the said contempt petition. Thereafter on 08/07/2005 the Court proceeded to direct attachment of personal properties of the respondents in the contempt petition. The appellant-respondent No.8 in the said contempt petition has challenged the aforesaid order on the ground that the appellant was not noticed in the contempt petition and hence there was no occasion to direct attachment of his personal properties.

2. Shri J. Mokadam, learned counsel for the appellant submits that since the Court had not issued any notice in the contempt petition to the present appellant there was no occasion for the petitioner to take

steps to comply with the directions issued earlier. He submits that in the contempt petition notice was issued only to the President and Vice President of the Education Society. In absence of any such notice to the appellant, the property of the appellant could not have been attached.

3. Shri S. V. Sohoni, learned counsel for the respondent No.1-original petitioner submits that the appellant was one of the respondents in the contempt petition and it was his duty to comply with the directions issued in the writ petition. Though the Court did not issue notice to the appellant his property was rightly attached as the said order remained to be implemented.

4. On perusal of the records of Contempt Petition No.5/2005 it is clear that the Court on 08/02/2005 issued notice only to respondent Nos.2 and 3 in the contempt petition. It is undisputed that the appellant is respondent No.8 in the contempt petition. In absence of any such notice the appellant did not have an opportunity to appear in the contempt petition and take further steps to contest the same. It is informed that the said contempt petition is still pending in view of the interim order passed in the present appeal. Since no notice was issued to the present appellant and he was not heard before the drastic order

dated 08/07/2005 attaching the private properties of the respondents came to be passed, the said order only to the extent of the present appellant is liable to be set aside.

5. Accordingly we direct that the order dated 08/07/2005 passed in Contempt Petition No.05/2005 shall not operate against the present appellant it having been passed without noticing him. Contempt Appeal No.3/2006 is accordingly allowed. It is made clear that we have not examined the correctness of the order dated 08/07/2005 to the extent the properties of the original respondent Nos.2 and 3 have been attached. It is open for the respondent Nos.1-contempt petitioner to pursue the contempt petition before the learned Single Judge against the present appellants in accordance with law. All points are kept open.

JUDGE

JUDGE

Asmita
Bhandakkar

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