

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13711 OF 2017
WITH
INTERIM APPLICATION NO. 4357 OF 2021

Eknath Dnyanoba Kale & Anr ...Petitioners

Versus

The State of Maharashtra through the ...Respondents
Department of Co-operation Summons & Ors

WITH
WRIT PETITION NO. 9745 OF 2018

The Maharashtra State Co-operation Bank Ltd ...Petitioners

Versus

The State of Maharashtra through its Department ...Respondents
of Co-operation at Mantraya & Ors

WITH
CONTEMPT PETITION NO. 397 OF 2021

Eknath Dnyanoba Kale ...Petitioner

Versus

The Secretary, Department of Cooperation State ...Respondents
of Maharashtra

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**Mr Yogesh Pande, for Petitioner in WP/9745/2018, WP/13711/2017
& CP/397/2021 and for Applicant in IA/4357 of 2021.**

Mr RP Kadam, AGP, for Respondent No. 1-State.

Ms Varsha Palav, with Ajinkya Palav & Anuj Tiwari, for Respondent

No. 8.

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 31st January 2022

PC:-

CONTEMPT PETITION NO. 397 OF 2021:

1. The Contempt Petition alleges contempt of two orders of this Court passed on 27th March 2019 and 9th April 2019. These orders were passed in two Writ Petitions, Nos. 13711 of 2017 and Writ Petition No. 9745 of 2018.

2. By the order on 27th March 2019, the Division Bench noted that the Maharashtra State Cooperative Bank, the Petitioner in Writ Petition No. 9745 of 2018, and the promoter of the Yashwant Sahakari Sakhar Karakana Ltd, Chintamani Nagar, District Pune were challenging the appointment of the liquidator. Both Petitions were taken up together. Having heard both sides, the Division Bench was of the considered view that the Petitioner as a responsible officer of the Bank should approach the Joint Regional Director (Sugar) of Cooperative Society and, if possible, negotiate an amicable settlement to clear the dues of farmers, creditors and the bank. This could perhaps, the Division Bench said, be done by sale of surplus lands that belong to the society. The Court requested that such a meeting be scheduled with the objective to ensure the revival of the sugar factory. The state was asked to consider the extent of land that could be sold without affecting future operational

requirements of the sugar factory. Altogether about 122 sugar farmers were involved. The society itself, as the Court noted, was a very old one of 1966. The Court requested all officers and representative of the bank society to meet with the Joint Regional Director (Sugar) to work out the matter keeping these views in mind. The matters were then stood over to 9th April 2019.

3. On that date, the Court noted that a meeting had indeed been conveyed on 8th April 2019. Minutes of that meeting were tendered to the Court and were taken on record. Considering those minutes, the Court directed the parties to comply with the directions and undertakings that they had given before the authority concerned and provide the necessary inputs to work out a mutually favourable settlement. The Court also authorised the Respondent Bank to appoint an auditor to assist the administrator in determining the exact liability. There were further observations in regard to a valuation report. The matter was then stood over to 6th June 2019. The main Petitions are still pending today.

4. The Contempt Petition alleges *inter alia* that the financial details of the sugar mill have not been provided. The exact liability has not been ascertained. Orally, it is argued that there is uncertainty in regard to who is in possession of the lands in question and of the properties of the sugar mills.

5. On this basis, we are unable to see that how there can be said to be contempt of either of these orders.

6. We do not believe this is a fit case for the exercise of our contempt jurisdiction. It is well settled that the contempt jurisdiction, though very much available, must be exercised sparingly and prudently, and only in an appropriate case. This is not one of them.

7. The Contempt Petition is rejected.

INTERIM APPLICATION NO. 4357 OF 2021:

8. This is an Interim Application by the Petitioners in Writ Petition No. 13711 of 2017. The Petitioners are both agriculturalists. We have noted above that there were two orders of 27th March 2019 and 9th April 2019.

9. Writ Petition No. 13711 of 2017 seeks a writ quashing a final winding up order dated 16th November 2017, a letter of that date and a consequential open tender notice of 1st December 2017.

10. The Interim Application on the other hand seek directions and orders that are far more expansive, including for the appointment of a banking ombudsman to ascertain market valuations of the 7th Respondent Sugar factory as on date and a statement of assets and liabilities. Then there are prayers for stake holders to prove their claims before the appointing authority, directions that creditors be prohibited from charging interest on loans, that the ombudsman be directed to invite a one time settlement proposal and so on.

11. In our considered view, the Interim Application is wholly misconceived. None of its prayers can fairly be said to be in the nature of reliefs in furtherance of main reliefs sought in the Petition. We are not persuaded that such directions can even be passed in exercise of our writ jurisdiction.

12. We are not inclined to grant any reliefs on the Interim Application. We dismiss the Interim Application.

13. However, in view of the subsequent events and, as regards the correctness of valuations obtained, the question of possession, etc it is open to the Petitioners to adopt appropriate proceedings in a Court of competent jurisdiction.

14. At this stage, Mr Pande seeks leave to amend the Petition. He states that he will prepare a draft amendment. Liberty to the Petitioners to obtain a listing by an application or praecipe after the draft amendment is ready.

15. The Interim Application is disposed of in these terms.

16. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)