

ORDER SHEET  
IN THE HIGH COURT AT CALCUTTA  
SPECIAL CIVIL JURISDICTION (CONTEMPT)  
ORIGINAL SIDE

CC/22/2023

SUNDAR LAL AND ORS.  
VS  
RAM LAL GUPTA AND ORS.

BEFORE:  
THE HON'BLE JUSTICE SUGATO MAJUMDAR  
**Date: 25<sup>th</sup> June, 2024**

Appearance:

Mr. Chayan Gupta, Adv.  
Mr. Pourush Bandyopadhyay, Adv.  
Mr. Arijeet Bera, Adv.  
...for the Petitioner.

Ms. Sayani Roy Chowdhury, Adv.  
Mr. Avirup Roy Sanyal, Adv.

...for the Respondent no. 4 to 6.

Mr. Soumabho Ghose, Adv.  
Mr. Sunil Kumar Singhanian, Adv.  
Ms. Twinkle Kaur, Adv.

... for alleged Contemnor Nos. 1 to 3.

The Court: CC 22 of 2023 is filed with prayers for condonation of delay in filing the present application issue of rule along with other prayers.

Genesis of the application is the Order dated 23<sup>rd</sup> February, 2009. The same Order was passed in GA 426 of 2009 arising out of CS 27 of 2009. In terms of the

aforesaid order, payer (e) of GA 426 of 2009 was allowed wherein prayer was order of injunction, restraining the respondents from dealing with, disposing of and/or transferring their right, title and interests in the flat on 4<sup>th</sup> floor of Raj Kamal Building, 13 Camac Street, Kolkata – 700017 and premises no. 10/2A, Alipore, Park Place, Kolkata and/or creating any third party interest therein. It is alleged that after passing of the said order the alleged Contemnor No. 1 to 3 transferred their respective shares and/or portions in the property at 10/2A Alipore, Park Place, Kolkata – 700017 by way of three separate registered deed of gifts dated 23<sup>rd</sup> March, 2009 in favour of their wives being Respondent no 4 to 6. It is contended that certified copies were made available to the Plaintiff on 20<sup>th</sup> February, 2003. It is contended further that the deed of gifts were registered during subsistence of the restraining order violating thereby the solemn Order dated 23<sup>rd</sup> February, 2009.

The contempt applications were resisted by the alleged contemnor on various grounds. The stand taken by the alleged contemnor no. 1 to 3 is primarily that the application is barred by law of limitation. The nutshell of pleading and submission in this regard is that CS 27 of 2009 was finally decreed on 27<sup>th</sup> January, 2010. On 25<sup>th</sup> September, 2014, a Co-ordinate Bench of this Court was pleased to pass an order directing an inventory of the premises, namely, 10/2A, Alipore, Park Place, Kolkata – 700027. A Special Officer was also appointed for preparation of inventory as contained in the said order. The Special Officer prepared inventory in presence of the parties, their advocates and representatives and filed a report on 10<sup>th</sup> November, 2014. It is further contended that in the Execution Case Ram Lal Gupta being the alleged Contemnor No. 1 filed an affidavit of asset disclosing income and property wherein he stated that he has no house property. That was sworn on 3<sup>rd</sup> December, 2014. According to the alleged Contemnors this came to the knowledge of the

Petitioners in that proceeding, namely, the Execution Case 517 of 2013. Since then the petitioner did not take steps. It came to the knowledge of the petitioner on 3<sup>rd</sup> December, 2014, therefore, the application is barred by limitation.

Mr. Gupta, the Learned Counsel appearing for the petitioner, vehemently opposed the stand of limitation. He pointed out that there is a clear averment in the application itself. The Petitioner came to know about the execution of deed of gifts on 20<sup>th</sup> February, 2003 when they got certified copies of the deeds, immediately thereafter the instant application was filed.

Section 20 of the Contempt of Courts Act 1971 provides that no court shall initiate, any proceedings for contempt, either on its own motion or otherwise, after expiry of a period of one year from the date on which contempt is alleged to have been committed. *Prima facie*, what the section provides is that limitation starts from the date of alleged act. The alleged act took place on 23<sup>rd</sup> March, 2009 when three deeds were registered. Since then almost decade elapsed till filing of the present application. The Learned Counsel for the alleged Contemnor also argued that registration of the gifts deed, as alleged, came to the knowledge of the Petitioners in the month of December 2014 when affidavit of assets was filed in the Execution Case. There is admission in application itself that the affidavits of assets were served upon the Learned Counsel of the present Petitioners. The Petitioners noted, as admitted in the present application, against the head property it is written “nil”. This affidavit was sworn on 3<sup>rd</sup> December, 2014. Date of service was not shown, intimated or disclosed by the present petitioner in the application. At least that is not one year immediately preceding the filing of the instant application. In the premises of facts discussed above, it can be concluded that the Petitioners had knowledge of execution of the deed or had means to discover the alleged execution of the deed, much earlier.

On filing of the affidavit of assets declaring that the Contemnor had no immovable property, it can be safely presumed that the Petitioners were put in constructive notice or notice of the fact of transfer. Provision of Section 17 of the Limitation Act may also be considered in this context, particularly where the section provides that in case of fraud or mistake, period of limitation shall not begin to run until Plaintiff or Applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of the concealed documents, until the Plaintiff or the Applicant first had the means of producing the concealed document or compelling its production. In **Pallav Seth Vs. Custodian & Ors. [(2000) 7 SCC 549]** Three Judges' Bench of the Supreme Court of India observed that Section 17 of the Limitation Act is applicable in respect of limitation prescribed as a special law under Section 20 of the Contempt of Courts Act. Facts stated above clearly shows that the Petitioners had knowledge or at least way to discover execution and registration of the deed of gifts, the alleged acts of contempt. Thereafter, no step was taken within a period of one year by the Petitioners. Therefore, very clearly the instant application is barred by the provision of Section 20 of the Contempt of Courts Act, 1971.

The instant application, therefore, stands dismissed as barred by limitation.

The instant CC 22 of 2023 stands disposed of.

(SUGATO MAJUMDAR, J.)