



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CONTEMPT PETITION NO.427 OF 2024
IN CA/2616/2003

MOHD MUDABBIR ALI KHAN

VERSUS

DEVIDAS SOMNATH PASTAPUR

...

Mrs. Fatema Kazi, Advocate h/f Mrs. S.S. Kazi, Advocate for petitioner

...

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 28th JUNE, 2024

ORDER :

1 The learned Advocate appearing for the petitioner invites attention of this Court to the pursis dated 26.09.2003 filed by Devidas Somnath Pastapur, wherein he has given undertaking to the Court, which reads as under :

“2 That, as per pursis I say and submit that, I will not create any third party interest in the nature of alienation, transfer or by way of sale to the suit property till the disposal of the present petition.”

She would submit that in pursuance of this pursis in the form of undertaking the respondent could not have created any third party right or interest in the property, however, according to her, at present the writ property is used for parking of the buses. According to her, respondent No.4 has entered into several lease agreements. As such she alleges the violation of lease, which amounts to contempt of this Court.

2 Having considered the submissions advanced, it is apparent that the pursis/undertaking given by the respondent assures this Court, the suit property would not be transferred or alienated so as to create third party interest during pendency of the writ petition. From the material brought on record along with this contempt petition there is nothing to demonstrate that the respondent has created any third party interest in contravention of the undertaking to this Court. Merely putting the property for use of the bus parking cannot be construed as transfer or creating third party interest, even it is assumed that there is lease agreement with third party, that does not amount to transfer or creating third party interest. In that view of the matter, there is no force in the contempt petition. Hence, the contempt petition stands dismissed.

(S.G. CHAPALGAONKAR)
JUDGE