

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

259 (I) CACP No. 11 of 2024 (O&M)
Date of decision: 31.07.2024

RADOX TRADER PVT. LTD. AND ANR.

-APPELLANTS

V/S

APARNA ASHRAM SOCIETY AND ORS.

-RESPONDENTS

(II) CACP No. 12 of 2024 (O&M)

ROSMERTA INFRASTRUCTURE PVT. LTD. & ANR.

-APPELLANTS

V/S

APARNA ASHRAM SOCIETY AND ORS.

-RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Puneet Bali, Sr. Advocate with
Mr. Jatin Sehgal, Advocate
Mr. Adhirath Singh, Advocate
Mr. Viren Sibal, Advocate
Mr. Devna Soni, Advocate
Mr. Viren Bansal, Advocate
Mr. Raymon Singh, Advocate
for the appellants (in CACP-11-2024).

Mr. Aashish Chopra, Sr. Advocate (Through V.C.) with
Mr. Yash Pal Sharma, Advocate
for the appellants (in CACP-12-2024).

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. R.S. Rai, Sr. Advocate with
Ms. Rubina Virmani, Advocate and
Ms. Radhika Mehta, Advocate
for the respondents No.7 and 8.

Mr. Yoginder Singh Rana, Advocate
for the respondent No.19.
Mr. Ankur Saigal, Advocate (Through V.C.) with
Mr. Nilesh Bhardwaj, Advocate

for the respondent No.21.

Dr. Surya Parkash, Advocate (Through V.C.) with
Mr. Jaskirat Singh, Advocate
for the respondent(s).

SURESHWAR THAKUR, J. (ORAL)

1. On oral request of the learned counsels appearing for the contesting litigants, CACP No. 11 of 2024 is taken on board itself for hearing.
2. Since both these contempt appeals arise from common orders made by the learned Contempt Bench of this Court, respectively on 07.05.2024, and, on 29.05.2024, in COCP-444-2021, orders whereof are extracted hereinafter, therefore, both these contempt appeals are amenable for being decided through a common verdict.

“Order dated 07.05.2024

The present petition has been filed alleging contempt qua the order dated 16.12.2016 passed in Civil Suit No.125/2004, whereby respondents No.5 to 15 were held to be not the proper management of the Society and despite that, they are selling the land belonging to the Society.

It deserves mention that the Society was established by a Sanyasi called Swami Dharendra Brahmchari. Since, he was a Sanyasi, therefore, he had proclaimed to the world that he had renounced it. Therefore, as such, there cannot be any legal heir of a person, who has renounced the world. In such a situation, the property left behind such a person or the establishment of such a person has to be taken as the property without a title-holder after the death of the said Sanyasi. Accordingly, in normal course, the entire properties of Swami Dharendra Brahmchari and the Society established by him are supposed to go to the State by way of escheat.

Counsel for the State seeks time to get instructions as to whether and when the State is going to take over the properties left

behind by Swami Dhirendra Brahmchari and the Society created by him.

Adjourned to 29.05.2024.”

“Operative part of Order dated 29.05.2024

The respondents No.1 to 3/State of Haryana are directed to take over the subject land.”

3. At the outset itself, it is crystal clear from a reading of the above extracted order that, thereby the learned Contempt Bench of this Court, did make a declaration that, with the deceased owner of the suit properties, who was a Sanyasi, thus not leaving behind any successor to his estate, as such, the suit properties were required to be escheated to the respondent-State. *Prima facie*, at the outset itself, the said made declaration was clearly beyond the scope and ambit of the jurisdiction vested in the learned Competent Bench of this Court, which but is strictly trammled within the frontiers of only enforcing any orders or directions passed by this Court, and/or, for maintaining and upholding the dignity and majesty of judicial proceedings laid either before this Court, or, for maintaining and upholding the dignity and majesty of judicial proceedings laid before the trial courts concerned, but, only when a reference to that extent is made to this Court. Therefore, at the outset itself the contempt petitions were gross abuse of the process of Court, and, were required to be declared as such at the threshold.

4. Before commencing to adjudicate the controversy agitated in the instant appeals, it would be apposite to, at this juncture, allude to a judgment relied upon by the learned senior counsel for the appellants regarding the maintainability of the instant appeals. The said judgment has been rendered by the Hon’ble Supreme Court in case titled as ***“Tamilnad Mercantile Bank Shareholders Welfare Association (2) Vs. S.C. Sekar and Others”, (2009) 2 Supreme Court Cases 784***, relevant portion whereof becomes extracted

hereinafter:-

“40. Although we need not go into the larger question of maintainability of the appeal in view of the fact that the matter had been referred to a three-Judge Bench in Dharam Singh v. Gulzari Lal [SLP (Civil) No.18852 of 2005, Decided on: 19.09.2005], but prima facie, in view of the decision of this Court in Purshotam Dass [(1978) 2 SCC 370:1978 SCC (Cri) 195] there cannot be any doubt that in a situation where order has been passed adverse to the interest of the alleged contemnor an appeal would be maintainable particularly where a judgment has been passed by a court which is beyond its jurisdiction.....”

5. A reading of the above extracted portion of the judgment (supra), but reveals that, it supports the hereinafter made inferences by this Court that, not only the contempt petition, whereons, jurisdiction became assumed by the learned Contempt Bench of this Court, and, whereafter the impugned order(s) became passed thereons, rather respectively were completely misconstituted, and, qua the jurisdiction assumed thereovers but being an ill assumed jurisdiction. Moreover, as but a natural corollary thereof, even the passing of the impugned order(s) over the contempt petitioners, were as such ill renditions, which thus are to be concluded to be made in excess of the jurisdiction vested in the learned Contempt Bench of this Court, thereby but naturally the jurisdiction as became exercised by the learned Contempt Bench, rather is deemed to be exercised with a gross illegality or a material impropriety. Therefore, in terms of the above extracted paragraph, as made by the Hon’ble Apex Court in judgment (supra), whereby, a declaration is enclosed about the appealability of orders, which become passed by the learned Contempt Bench concerned, orders whereof, but are *coram non judice*. Resultantly, when this Court has concluded, for reasons assigned hereinafter that, the impugned order(s) are *coram non judice*, thereby there was vestment of an empowerment in the appellants to avail the remedy of

appealing thereagainst, thus through the institution of the instant appeals before this Court.

FACTS

6. In the Contempt Petition bearing No.444/2021, arraying therein the respondents/contemnors, an espousal was made for summoning and punishing the contemnors thus for theirs willfully, intentionally and deliberately violating the judgment and decree dated 16.12.2016, as became rendered by the court of learned Civil Judge (Junior Division), Gurgaon, upon Case No.125/2004, titled as **“Aparna Ashram and others Vs. M/s. Shri Damodar Corporation and others”**.

7. At the outset itself, it is abundantly clear that, though the respondents/contemnors in the contempt petition, may purportedly have intentionally and wilfully flouted the judgment and decree (supra), yet when the matter was earlier taken up, rather than it was most forcefully contended before this Court that, *qua* thus the jurisdiction to well take proactive lawful action against the purported contemnors, rather did not vest in the learned contempt court concerned, but, vested in some other courts or authorities. Consequently, it was but naturally argued that, the contempt petition was an abuse of the process of law, besides it being completely misconstituted. In sequel, it was further contended that, the issuance of show cause notices upon the respondents/contemnors. Moreover the passing of the impugned order(s) by the learned contempt court, thus was in utter disregard to the principles relating to the investment of jurisdiction in it, especially when the contempt petition was completely misconstituted, and resultantly, no action for any purported intentional and willful disobedience, being purportedly caused to the judgment and decree (supra), thus was drawable through contempt proceedings being

instituted against such purported violators. All the above submissions for reasons assigned hereinafter are well founded, thus require becoming accepted by this Court.

8. Emphatically the parties do not wrangle over the factum that, the judgment and decree (supra) has acquired a binding and conclusive effect. Be that as it may, in the civil suit (supra), as evident on a reading of the hereinafter extracted memorandum of parties, as borne therein, the appellants before this Court, and, who became arrayed as contemnors in the contempt petition, thus were not arrayed as party defendant(s) therein.

“1. Aparna Ashram (a society registered) having its registered office at A-50, Friends Colony, Main Mathura Road, New Delhi-110065, through its authorized President, Shri Laxman Choudhary S/o Late Sh. Bir Chand R/o A-50, Friends Colony, New Delhi-110065.

2. Shri Laxman Chaudhary S/o Late Sh. Bir Chand R/o A-50, Friends Colony, Main Mathura Road, New Delhi-110065, duly elected President & Member of Aparna Ashram Society.

3. Satender Chaudhary S/o Late Sh. Bir Chand R/o A-50, Friends Colony, New Delhi-110065.

4. Smt. Kum Kum Chaudhary W/o Sh. Laxman Chaudhary R/o A-50, Friends Colony, New Delhi-110065.

5. Smt. Nootan Chaudhary W/o Sh. Satender Chaudhary R/o A-50, Friends Colony, New Delhi-110065.

6. Sh. Harikant Jha S/o Sh. Gheena Jha R/o A-50, Friends Colony, New Delhi-110065.

7. Smt. Sunita Jha W/o Sh. Jha Teacher, Central School, Tehsil and Distt. Muzaffarpur, Bihar.

8. Sh. V.K. Magoo R/o Karan Nagar, Jammu (J&K). Sh. S.D. Bhasin R/o 185, Sarwal, Jammu (J&K).

9. Smt. Anurag W/o Late Sh. Bir Chand R/o A-50, Friends Colony, New Delhi.

-Plaintiffs.

Versus

- 1. M/s. Shri Damodar Corporation having its Head Quarter at G-1, Nahar & Seth Industrial Estate, Chakla Andheri (East) Mumbai-400099 through its authorized signatory and partner Mr. Kailash Nath Chaturvedi S/o Amarnath Chaturvedi R/o 115, Defense Enclave, New Delhi-110092, Present Address L F-75, Shahid Bhagat Singh Marg, New Delhi.*
- 2. M/s IDM International an Associate of Cogent Group of Companies through its House Y-14A, Green Park Main, New Delhi-110016.*
- 3. M/s Unitech Ltd. Unitech House, L-Block, South City Gurgaon, through its Managing Director, Shi Ramesh Chandra.*
- 4. M/s MGF Developments Limited 17-B, Asaf Ali Road, New Delhi through its Director, Mr. Sharvan Gupta.*
- 5. M/s Columbia Holdings Pvt. Ltd. having registered office at 17-B, Asaf Ali Raod, New Delhi through its Director, Mr. Sharvan Gupta.*
- 6. Shri Kailash Nath Chaturvedi S/o Sh. Amarnath Chaturvedi resident of 115, Defense Enclave, New Delhi-110092, present address F-75, Shahid Bhagat Singh Marg, New Delhi.*
- 7. Shri Santosh Kumar Bagla S/o Late Sh. Laxmi Narain Baghla resident of 326, Sector-15 Phase-1, Gurgaon.*
- 8. Sh. Kashmir Singh S/o Sujan Singh R/o Fatehpur, Distt. Kangra Himachal Pradesh.*
- 9. Sh. Laxmi Raman R/o A-12, Friends Colony, New Delhi.*
- 10. Shri Subhash Dutt R/o 127, Afghar (Afghana) Mohalla, J&K.*
- 11. Shri Murli Chaudhary R/o A-50, Friends Colony, New Delhi.*
- 12. Smt. Renu Chaudhary R/o A-50, Friends Colony, New Delhi.*
- 13. Sh. Shyam Sharma R/o Laxmi Nagar, Shahdara, Delhi.*
- 14. Sh. Dushyant Sharma R/o Purani Mandi, Jammu (J & K).*
- 15. Smt. Sudarshan Sharma R/o Laxmi Nagar, Shahdara, Delhi.*
- 16. Sh. P.N. Singh R/o Laxmi Nagar, Shahdara Delhi.*
- 17. Smt. Vindula Jha, W/o Sh. Hari Kant Jha, R/o Village & Post Office Siswar, Tehsil & Distt. Madhusani, Bihar.*
- 18. Sh. Vijay Kaushik R/o Delhi Raod, Gurgaon.*

19. *Sh. Dinesh Jain S/o Sh. J.P. Jain, R/o 205, Preet Vihar, Delhi.*

20. *Sh. K.N. Jha S/o Sh. Ram Lakhan Jha, R/o Central School, Muzaffarpur, Tehsil & Distt. Muzaffarpur, Bihar.*

21. *Justice K.K. Gupta, (Retd.) R/o H.No. 15-B, A/c, Gandhi Nagar, Jammu.*

-Defendants”

9. Therefore, but naturally, even if there is any purported violation of the said passed judgment and decree, therebys in the face of the present contemnors rather not becoming arrayed as defendants in the said civil suit, thereby also it but could not be *prima facie* alleged against them that, they had purportedly violated the judgment and decree, as became passed by the learned civil court of competent jurisdiction. As such, but naturally the contempt petition, if became generated from the judgment and decree (supra), thereby too, the same was a misrecoursed remedy for enforcing the said judgment and decree, thus even against the contemnors, irrespective of the fact that, the present contemnors became not arrayed as defendants in the civil suit, but were required to be punished, thus on the ground that, the judgment and decree (supra) purportedly was a judgment in rem, thus covering all persons/entities, who also remained unarrayed as defendants in the said civil suit. Of course and naturally the remedy for enforcing even a judgment of rem against the present appellants was other than through the institution of a contempt petition before this Court.

10. Furthermore, in terms of the pleadings raised besides in terms of the relief sought in the civil suit (supra), the Civil Judge concerned, proceeded to draw the hereinafter extracted issues:-

“1. Whether alleged lease deeds by way of Vasika No. 3071 dated 13.10.1983, 2603 dated 6.09.1983, 1946 dated 09.07.1983, 6152 dated 26.10.1984, 4608 dated 10.08.1984, 296 dated 16.04.1984 and 2568 dated 02.09.1983 in favour of defendants no. 8 & 9 and mutations nos. 684, 687, 689, 696, 699, 701 and 712 in favour of

defendants no. 8 & 9 and subsequently entries regarding alleged lease hold rights in their favour in the revenue record upto date are totally false, illegal, unauthorized, without jurisdiction void, sham transaction on the grounds as alleged ? OPP.

2. Whether the alleged transaction between the defendant no. 1 to 7 and 10 like alleged collaboration agreement dated 08.09.2000 purported to have been effected by defendant no. 10 in favour of defendant no. 1, alleged MOU purported to have been effected by defendant no.1 in favour of defendant no.2 dated 29.11.2002 and alleged M.O.U purported to have been effected by defendant no. 2 in favour of defendant no. 3 dated 17.09.2003 and the alleged collaboration/agreement dated 15.10.2003 purported to have been effected by defendant no. 1 in favour of defendant no. 2 and alleged M.O.U or agreement purported to have been affected by defendant no. 2 in favour of defendants no. 4 & 5 or any other documents found to be executed between them inter-se in any manner and the alleged resolution allegedly dated 27.08.2000 in favour of defendant no. 10 and then alleged confirmation dated 02.09.2000 in his favour are totally illegal, unauthorized jurisdiction, void and a nullity in the eyes of law on the grounds as alleged? OPP.

3. Whether plaintiffs are entitled for relief of permanent injunction on the grounds as alleged? OPD.

4. Whether plaintiffs have no locus-standi to file the present suit? OPD.

5. Whether plaintiffs have no cause of action to file the present suit? OPD.

6. Whether suit of plaintiffs is not maintainable in its present form? OPD.

7. Whether suit of plaintiffs is time barred? OPD.

8. Relief.”

11. Subsequently, on adduction of evidence on the said formulated issues, the Civil Judge concerned passed a declaratory decree, which is carried in the relief portion of the judgment and decree (supra), operative part whereof becomes *ad verbatim* reproduced hereinafter.

“20. As a sequel to my above discussion, the suit of the plaintiffs succeeds and same is hereby decreed with costs. It is declared that plaintiff No. 1 is the absolute owner in possession of the land described in para no. 2 of the plaint. It is further declared that alleged lease deeds by way of vasika nos. 3071 dated 13.10.1983, 2603 dated 06.09.1983, 1946 dated 09.07.1983, 6152 dated 26.10.1984, 4608 dated 10.08.1984, 296 dated 16.04.1984 and 2568 dated 02.09.1983 in favour of defendants no. 8 & 9 are redundant and hence, mutations nos. 684, 687, 689, 696, 699, 701 and 712 in favour of defendants no. 8 & 9 and subsequently entries regarding alleged lease hold rights in their favour in the revenue record upto date have no force and liable to be rectified. It is further declared that the alleged transactions between the defendant nos. 1 to 7 and 10 like alleged collaboration agreement dated 08.09.2000 purported to have been effected by defendant no. 10 in favour of defendant no. 1, alleged MOU purported to have been affected by defendant no.1 in favour of defendant no.2 dated 29.11.2002 and alleged MOU purported to have been effected by defendant no.2 in favour of defendant no. 3 dated 17.09.2003 and the alleged collaboration/agreement dated 15.10.2003 purported to have been effected by defendant no. 1 in favour of defendant no. 2 and alleged M.O.U or agreement purported to have been affected by defendant no. 2 in favour of defendants no. 4 & 5 or any other documents found to be executed between them inter-se in any manner and the alleged resolution allegedly dated 27.08.2000 in favour of defendant no. 10 and then alleged confirmation dated 02.09.2000 in his favour are illegal, unauthorized, void and nullity in the eyes of law having no effect on the right, title or interest of plaintiff no.1 over the suit land. It is further declared that the alleged transactions between the defendant nos. 1 to 7 and 10 like alleged collaboration agreement dated 08.09.2000 purported to have been effected by defendant no. 10 in favour of defendant no. 1, alleged MOU purported to have been affected by defendant no.1 in favour of defendant no.2 dated 29.11.2002 and alleged MOU purported to have been effected by defendant no.2 in favour of

defendant no. 3 dated 17.09.2003 and the alleged collaboration/agreement dated 15.10.2003 purported to have been effected by defendant no. 1 in favour of defendant no. 2 and alleged M.O.U or agreement purported to have been affected by defendant no. 2 in favour of defendants no. 4 & 5 or any other documents found to be executed between them inter-se in any manner and the alleged resolution allegedly dated 27.08.2000 in favour of defendant no. 10 and then alleged confirmation dated 02.09.2000 in his favour are totally illegal, unauthorized, without jurisdiction, void and a nullity in the eyes of law having no effect on the right, title or interest over the suit land described in para no.2 of the plaint. Defendants no.1 to 9 are restrained from interfering in the ownership and possession of the plaintiffs over the suit property in any manner or to create any charge or to raise any construction over it in any manner and not to make claim in this property or to make any representation to any person or authority claiming any right or securing any amount on behalf of this property described in para no.2 of the plaint in any manner.....”

12. As such, when the parties do not quarrel over the factum that, the judgment and decree (supra) has acquired a binding and a conclusive effect, therefore, the naturally corollary thereof, is that, the issues whereons findings in favour of the plaintiffs became rendered, rather if did not cover the issues over which the parties are now litigating before this Court, thereupon there was no occasion for the plaintiffs to draw contempt proceedings against the contemnors concerned, who even otherwise were not arrayed as defendants in the said civil suit. The said fact has not even been considered, nor becomes adjudicated upon by the learned Contempt Bench of this Court, rather in a most hasty manner, the learned Contempt Bench hence has assumed the jurisdiction of the civil court of competent jurisdiction, thus to pass a declaration, whereby, the suit properties become escheated vis-a-vis the respondent-State of Haryana. The above *prima facie* ill happened despite the fact that, for reasons assigned hereinafter, certain

transactions post the passing of the decree (supra) becoming entered into, transactions whereof became entered into only in terms of Annexure A-13, i.e. an order passed by Registrar of Societies concerned, whereby empowerment to act on behalf of Aparna Ashram Society hence purportedly became assigned to the persons named therein.

13. Now, even if assuming, the issues which now fall for consideration before this Court did also fall for consideration before the Civil Judge concerned. Moreover, even if assuming that, if the contemnors in the contempt petition became arrayed as defendants in the civil suit (supra), yet to the considered mind of this Court, thereupon too, the remedy available to the plaintiffs, in case of intentional violation being caused to the judgment and decree (supra), was through the plaintiffs availing the remedy(ies) as prescribed under Order 21 of the CPC, and/or, if post the rendition of the binding and conclusive decree (supra), certain sale transactions were made in respect of the suit claims. Resultantly, thereupon too, the remedy to negate the said made sale transactions thus was through a declaratory suit, becoming instituted before the civil court of competent jurisdiction, hence on the ground that, the said made sale transactions were void *ab initio*, and/or, did not confer any valid title upon the vendees concerned. Conspicuously, also thereby the invocation of the contempt remedy was an unbecoming remedy for the relevant purpose.

14. Be that as it may, post the rendition of the decree (supra), representations were addressed by the concerned to the Registrar of Societies, District South-East Old Gargi College Building, Behind LSR College, Lajpat Nagar-IV, New Delhi. The makings of the said representation was to ensure that, thereby some valid authorization becomes bestowed upon the makers of the representations rather to deal with the subject properties.

15. From a reading of Annexure A-13, wherein, becomes enclosed the order rendered upon the representations concerned, operative part whereof becomes extracted hereinafter, it clearly emerges that the persons referred therein were declared to become empowered to carry the activities of the Aparna Ashram Society. Moreover, the governing council of the Aparna Ashram Society was also named therein.

“In view of the above and various facts submitted by the applicant in his representation dated 21/09/2020 & 22/10/2020, the claim of the applicant regarding its members mentioned in representation dated 22/10/2020 being the General Body and Governing Council of the Aparna Ashram Society for the year 2019-2020 having the mandate to carry the activities of the Aparna Ashram Society is as under:-

General Body

- i) Shri Subhash Dutt*
- ii) Shri B.S. Pathania*
- iii) Shri S.P. Verma*
- iv) Shri K.S. Pathania*
- v) Shri Ashok Kumar*
- vi) Shri S.K. Bali*
- vii) Shri Bharat*
- viii) Shri Himanshu Sharma*

Governing Council

- i) Shri Subhash Dutt, President*
- ii) Shri B.S. Pathania, Director/Member of the Governing Council.*
- iii) Shri S.P. Verma, Director/Member of the Governing Council.*
- iv) Shri K.S. Pathania, Director/Member of the Governing Council.*

On the basis of aforesaid facts, the above General Body and Governing Council of Aparna Ashram Society (Registration No. S-5766/1973-74) is affirmed and certified copies be issued accordingly.”

16. The impact of the above is that, *prima facie* therebys, irrespective of the fact that, a saint died intestate, yet the estate left behind him became subjected to a regulatory mechanism. If so, when the dispute which emerged amongst various litigants, thus appertained to the validities of contra managerial mechanisms as become evolved for taking care of the estate of the deceased saint. In sequel, *prima facie* therebys there was no requirement for the learned Contempt Court of this Court to make a declaration for thereby escheating the said properties in favour of the State. The further effect thereof, is that, therebys the suit filed by the contempt petitioners, thus in the capacity of theirs overseeing and managing the affairs of the estate of one Swami Dharendra Brahmchari, thus also *prima facie* became impliedly declared to become misconstituted, besides *prima facie* therebys the judgment and decree (supra), but was *prima facie* impliedly declared to be inconsequential nor therebys the contempt petition was well constituted.

17. Therefore, in the makings of the said made unilateral declaration, without any issues becoming framed and also when no evidence became adduced thereons, thus the learned Contempt Bench rather has clearly ill attempted to assume jurisdiction over the contempt petition, but on the ill assumed presumption that it was trying a civil suit. Contrarily, the said may have been done only after the apposite lis had undergone the rigors of a trial, as contemplated in the Code of Civil Procedure, inasmuch as, only after the striking of issues taking place, on the contentious pleadings of parties, thus evidence becoming adduced thereons, but leading to the returning of findings thereons vis-a-vis the legal combatant, who had ably discharged the apposite evidence adducing discharging burden. Apparently the petition reiteratedly, has been converted into a civil suit and that too without the rigors of the CPC becoming

undergone whereafter the said ill declaration has been made by the learned Contempt Bench of this Court.

18. It is also not disputed amongst the contesting litigants that, post the makings of Annexure A-13 by the Registrar of Societies concerned, whereby, the apposite authorization became purportedly bestowed upon the persons named in the hereinabove extracted operative part of the order, thus certain sale transactions occurred in respect of the properties concerned. Pertinently also, since in pursuance of the said made sale transactions, the vendees thereof assumed possession over the properties thus covered within the said sale transactions. Moreover, since some purported threats or invasions were made at the instance of the concerned, over such assumed possession, thereby the vendees of the sale transactions, did become led to access the civil court of competent jurisdiction, through theirs instituting a civil suit, claiming therein reliefs for rendition of a decree of permanent prohibitory injunction.

19. An application under Order 39 Rule 1 and 2 of the CPC was filed within the said civil suit, thus claiming therein relief that, during pendency of the suit, the defendants therein, be restrained from interfering in the possession of the plaintiffs/appellants in the contempt appeals, over the suit properties. The operative part of the order, as became passed on the said application, is extracted hereunder:-

“Keeping in view the circumstances and in the interest of justice, both the parties are directed to maintain status quo in all respect. Further, the operation of alleged cancellation deed bearing vasika number 1345 dated 21.02.2024 is stayed till further orders.”

SUBMISSIONS OF THE LEARNED SENIOR/COUNSEL FOR THE RESPONDENT(S)

20. The learned senior counsel appearing for the respondents in the instant contempt appeal(s), has most vociferously argued before this Court that,

the only remedy available to be resorted by the petitioners, thus was to institute a contempt petition before the learned Contempt Bench of this Court. He founds the above argument, on the premise that, since the civil court of competent jurisdiction nullified both the apposite lease/sale transactions and the apposite collaborative agreements, as drawn in respect of the suit claims. Therefore, post the rendition of the civil court decree concerned, rather the respondents/contemnors, irrespective of theirs being respectively the vendees and vendors of the sale transactions, which occurred post the making of the decree (supra), thus are liable to be punished for contempt.

21. He further submits that, the said made sale transactions in respect of the properties or suit claims, thus covered within the decree of declaration, as became passed by the civil court of competent jurisdiction, rather are perpetuation of continuous wrongs, thereby there is a continuous and recurrent cause of action. Therefore, he submits that, since under Article 215 of the Constitution of India, the High Court is a court of records and is empowered to punish for contempt of court, irrespective of contempt being committed of orders or proceedings of this court, but, also in case contempt is committed of orders or proceedings of courts subordinate to the High Court. Resultantly, when in the face of the above, *prima facie* contempt of the proceedings and/or of judgment and decree (supra) thus has been committed by the contemnors. In sequel, not only the contempt petition was well constituted, but also the rendition thereons of the impugned order(s) but are also valid.

REASONS FOR REJECTING THE ABOVE SUBMISSIONS

22. However, the above made submissions are not acceptable to this Court. The reason for forming the above conclusion is drawable from the fact that, the jurisdiction vested in the High Court, in terms of the mandate carried in

Article 215 of the Constitution, provisions whereof are extracted hereinafter, is exercisable by the High Court only but when there is *prima facie* contempt of proceedings of this Court, or, of orders made by this Court. Moreover, though therebys the conferred powers to punish for contempt of orders or proceedings of trial courts, rather is also exercisable by the High Court, but only when a reference to that effect is made to the High Court by the trial court(s) concerned. The necessary corollary thereof, is that, unless initially the petitioners had instituted an application before the learned civil court of competent jurisdiction, claiming therein relief that, there is either contempt of judicial proceedings drawn by it, and/or, there is *prima facie* contumacy vis-a-vis any orders or directions passed by the civil court of competent jurisdiction, besides when an apposite reference in respect thereof becoming made by the civil court of competent jurisdiction to this Court, therebys alone the High Court became/ becomes vested with jurisdiction to punish the alleged contemnors, thus for contempt being committed of proceedings or orders made by the learned trial court(s) concerned.

“215. High Courts to be courts of record.—Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.”

23. Impact-fully however there is no reference made by the learned civil court of competent jurisdiction to this Court vis-a-vis there being any *prima facie* contempt of any proceedings drawn by it or qua any intentional disobedience becoming made vis-a-vis any order passed by it. *Ex facie*, in the face of the above, the filing of the contempt petition was completely misconstituted. Therefore, the contempt petition was liable to be dismissed at the threshold, on the ground that, the same is not maintainable. However, the learned Contempt Bench of this Court has issued the impugned order(s), which evidently

fall foul of the jurisdiction vested in this Court under Article 215 of the Constitution of India.

24. Even if there is any grievance, which is inhering in the minds of the petitioners in the contempt petition, and, which relate to the sale transactions, as made in respect of the properties covered or not covered in the suit claims, in respect whereof a binding and conclusive declaratory decree became rendered by the civil court of competent jurisdiction, therebys also, as stated (supra) and reiteratedly so, thus the remedy for undoing the said grievance was only through the institution of a civil suit under the Specific Relief Act. The said suit may have become premised on the ground of the said sale transactions rather fall foul, on the further plank that, thereby breach being done to the decree of the Civil Court, and/or, on the ground that, the vendor of such sale deeds became vested with no right, title or interest to confer further title upon vendees of such sale deeds. Moreover, furthers on the additional plank that, the empowerment created in the persons named in Annexure A-13, as authored by the Registrar of Societies concerned, was non est and void.

25. However, the learned Contempt Bench of this Court, has been unmindful to the above, whereas, the relief for undoing the grievance now emerging amongst the contesting litigants rather was only canvas-able through the filing of an apposite civil suit before the jurisdictionally competent court concerned. The necessity of filing of a civil suit rather for undoing the grievance (supra), as ventilated in the contempt petition, does ensure that, therebys adherence to the principles of natural justice becomes ensured, as rather through the filing of a civil suit, the trial as entered thereovers, requires (a) invitation of response from the defendants, (b) striking of issues, (c) adduction of evidence thereons. If the said manner of doing complete justice to all concerned is thrown

overboard, thereby but obviously the sacrosanct principle of “audi alteram partem” deeply inhering the trials to be embarked upon a civil suit rather would become completely ill negated. In aftermath, the purported declaration made by the learned Contempt Bench of this Court, thus declaring the properties concerned to become escheated in the State, to the considered mind of this Court, is an ill assumed jurisdiction of the Civil Court of competent jurisdiction, besides is also violative of the principles of natural justice.

FINAL ORDER

26. For all the reasons (supra), this Court finds merit in the instant appeals and is constrained to allow them. Accordingly, both these appeals are **allowed** and the impugned orders are quashed and set aside. Moreover, the contempt petitions are dismissed on the ground that they are completely mis-constituted, but with an exemplary cost comprised in a sum of Rs.1 lac each to be forthwith deposited, by the petitioners who laid the apposite contempt petitions, thus with the ‘**Punjab and Haryana High Court Bar Clerk’s Association**’.

27. Any dispute relating to right, title or interest, and/or, the validity of execution of the sale deeds concerned, besides relating to assumption of possession thereovers, is available to be settled through the parties availing the civil court remedies, unless not already availed.

28. The action taken by the State, in terms of the impugned orders, is also quashed and set-aside, but, leaving liberty (supra) to all concerned.

29. All pending application(s) stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

31.07.2024
devinder/ithlesh

Whether speaking/reasoned ? Yes/No
Whether reportable ? Yes/No