

**HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
(CONTEMPT)
(COMMERCIAL DIVISION)**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Prasenjit Biswas,

**CPAN/524/2025
In TS(Com) 85/2024
SUNIL KISHIN PUNWANI
VS
SUSHANTA MITRA AND ORS.**

For the Petitioner : Mr. Utpal Bose, Sr. Adv.
Mr. Sagnik Majumdar, Advocate
Mr. Aurin Chakraborty, Advocate
Ms. Shreya Ghosh Dastidar, Advocate

For Contemnors : Mr. Raghunath Chakraborty, Advocate
Mr. Supratick Syamal, Advocate
Mr. Rajarshi Mitra, Advocate

Heard and Judgement on: July 11, 2025

DEBANGSU BASAK, J.

1. Affidavit-of-service filed in Court be taken on record.
2. Petitioner complains of wilful and deliberate violation of the judgment and order dated December 6, 2024 passed by the learned Judge, Commercial Court at Alipore being IA 02 of 2024 in T.S. Com No. 85 of 2024 (Sunil Kishin Punwali vs. Sass Med Pvt. Ltd. & Ors.).
3. Learned senior advocate appearing for the petitioner submits that, the contemnors are in occupation of a property as tenants. Suit for eviction is pending as against the contemnors. He submits that in

such suit for eviction, judgment and order dated December 6, 2024 was passed requiring the contemnors to pay the monthly lease rentals. He points out that neither are they paying the lease rent/ occupation charges, nor are they vacating the premises concerned.

4. Learned senior advocate appearing for the petitioner submits that the respondents claimed to run a medical facility at the premises concerned. They were without necessary permission to do so from the appropriate authorities. A writ petition was filed. The contemnors were found guilty of act of contempt by the writ Court.
5. Learned senior advocate appearing for the writ petitioner, in response to a query of the Court as to whether, a contempt petition is maintainable, in respect of an order which directs payment of money, relies upon **2017 SCC OnLine SC 340 [Suresh Thakar vs. Dr. Aditya Parakh & Ors.]**, **2025 SCC OnLine SC 931 [Chithra Woods Manors Welfare Association vs. Shaji Augustine]** and an unreported decision of the Co-ordinate Bench rendered in **APOT 362 of 2024 with CS 26 of 2021 [Mr. Projay Singha Roy vs. Rajasthan Fertilizers & Chemical Corporation Ltd.]** in support of the proposition that, a contempt petition is maintainable when, the order involves a direction for payment of money.
6. In **Chithra Woods Manors Welfare Association (supra)**, a contempt petition was filed before the Supreme Court alleging non-payment of arrears or use and occupation charges for a specified period as directed by the Supreme Court by its order dated November 7, 2022. In such contempt petition, the Hon'ble Supreme Court noted that, there was an order dated November 7, 2022, where the contemnor therein, was allowed to pay the arrears in installments.

7. Supreme Court noted, in the fact of that case, that the contemnor deliberately and with *mala fide* intention, not only misled and misused the process of Courts but has also intentionally violated the order passed by the Supreme Court on November 7, 2022 by not making the payment as directed therein. Supreme Court was also of the view that, the contemnor therein, sought order from the Supreme Court by which, benefits were conferred on the basis of the submissions made by the contemnor and, thereafter, the contemnor did not comply with such order, thereby, such action amounted to an act of contempt. Supreme Court observed that, contempt would amount to an attempt to exploit the procedural process of Court to outreach and manoeuvre resulting in abuse of law and legal proceedings. It also observed that any person who misuses the process of Court with ulterior motives cannot be said to be a person having approached the Court with clean hand. A person who tries to turnish the process of litigation to the extent of misguiding and misleading the proceedings before the Court resulting in passing of orders which are to his benefit at the costs of the loss of dignity, leading to shrinkage of the faith of the common man in the judicial process should not be permitted.
8. In **Suresh Thakar (supra)** there was a direction for furnishing an undertaking with a caution that, in the event, such undertaking is not complied with, the failure would be visited with a contempt proceedings.
9. In **Mr. Projay Singha Roy (supra)** considered a situation where an undertaking was recorded in an earlier order dated May 6, 2022 and it was alleged that the contemnor violated such undertaking.
10. Alleged contemnors are represented.

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11. Learned advocate for the alleged contemnors submits that, an appeal is pending directed against the judgment and order dated December 6, 2024.
12. Learned advocate appearing for the petitioner submits that, his clients are not aware of any appeal pending as against the judgment and order dated December 6, 2024.
13. Fact scenario obtaining in the present case is different from the three citations noted above. Nothing is placed before us to suggest that contemnors before us invited the Court passing the judgment and order dated December 6, 2024 and obtained any benefit from such Court. Mere possession of an immovable property, as a tenant holding over or otherwise, will not result any act of contempt. It is for the petitioner to peruse remedy for eviction, in accordance with law. Nothing is placed before us to even remotely suggest that any of the contemnors gave any undertaking to any Court and that any of the contemnors acted in wilful or deliberate violation of any undertaking given to the Court.
14. In such circumstances, we do not find the present contempt petition to be maintainable.
15. CPAN/524/2025 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Prasenjit Biswas, J.)