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49-CP-221-2025 modified

This order is corrected pursuant to speaking to minutes order dt.24.03.2025.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

49 CONT. PETITION NO. 221 OF 2025

Padmashree Dr. Vitthalrao Vikhe Patil Sahakari Sakhar Karkhana Ltd.
Through Its Managing Director

VERSUS

The Shri Ganesh Sahakari Sakhar Karkhana Ltd.,thru. Incharge,
Managing Dir. Nitin R. Bhosle And Ors

...

Mr. Girish Kalidasrao Thigale, Advocate for the Petitioner.

Mr. P. P. Dawalkar, AGP for Respondent - State.

CORAM : KISHORE C. SANT, J.

DATE : 7th MARCH 2025

PC :-

1. Heard the learned Advocate for the petitioner.
2. At the outset, this Court made an quarry about the maintainability of the contempt petition for disobedience of the order passed by the Arbitrator. He relied upon the judgment passed by the Hon'ble Apex Court in the case of *Urban Infrastructure Real Estate Fund Vs. Dharmesh S. Jain and Anr.*¹ wherein the Hon'ble Court has held that if case is made out of willful disobedience of the award or order which contempt may be filed.

¹ (2022) 6 SCC 662

3. In view of the judgment, this Court heard the learned Advocate for the petitioner. The learned Advocate for the petitioner points out that in spite of specific order dated 2nd September 2024 passed by the learned Arbitrator, there is no compliance of the respondent and the State. The respondents have created mortgage over the property which is subject matter of the order dated 2nd September 2024. This amount willful disobedience of the order passed by the learned Arbitrator. The mortgage is annexed at page 113 of the contempt petition. This Court found that prima face case is made out to issue notice to the respondents.

4. Issue notice to the Respondents, returnable on 21st April 2025.

5. Learned AGP waives service of notice for Respondent No.3.

[KISHORE C. SANT, J.]