



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CONTEMPT PETITION NO. 221 OF 2025

Padmashree Dr. Vitthalrao Vikhe Patil
Sahakari Sakhar Karkhana Ltd.,
At Pravara Nagar, Tq. Rahata,
Dist. Ahmednagar, Maharashtra,
Through its Managing Director

.. Petitioner

Versus

1. The Shri Ganesh Sahakari Sakhar Karkhana Ltd., Ganesh Nagar, Tq. Rahata, Dist. Ahmednagar, Through its Incharge, Managing Director, Nitin Ramchandra Bhosale
Age : 50 years, Occu. : Service, R/o. Ganeshnagar, Tq. Rahata, Dist. Ahmednagar, Maharashtra.
2. The Ahmednagar District Central Co-operative Bank Ltd., Head Office, Station Road, Ahmednagar, Maharashtra Through its Chief Executive Officer Raosaheb Laxman Varpe, Age : 60 years, Occu. : Service, R/o. : Head Office Station Road Ahmednagar.
3. The Sub Registrar, Rahata, District Ahilyanagar, Anand Rashinkar
Age : 45 years, Occu. : Service, R/o. : Sub Registrar Office, Behind Rahata Nagar Parishad Rahata, Tq. Rahata, Dist. Ahmednagar.

.. Respondents

Mr. Pralhad D. Bachate, Advocate a/w Mr. Abhinay D. Khot,
Advocate for the Petitioner.

Mr. R. L. Kute, Advocate for Respondent No. 1.

Mr. R. N. Dhorde, Senior Advocate i/b Mr. V. R. Dhorde, Advocate
for Respondent No. 2.

Smt. Kalpalata Patil-Bharaswadkar, Addl.G.P. for Respondent
No. 3.

AND
CONTEMPT PETITION NO. 793 OF 2025

Padmashree Dr. Vitthalrao Vikhe Patil
Sahakari Sakhar Karkhana Ltd.,
At Pravara Nagar, Tq. Rahata,
Dist. Ahmednagar, Maharashtra,
Through its Authorized Signatory
Abhijit Arjunrao Dighe,
Age : 35 years, Occu. : Service,
R/o. Pravaranagar, Tq. Rahata, Dist. Ahilyanagar .. Petitioner

Versus

1. The Ahmednagar District Central
Co-operative Bank Ltd.,
Head Office, Station Road,
Ahmednagar, Maharashtra
Through its Chief Executive Officer
Raosaheb Laxman Varpe,
Age : 45 years, Occu. : Service,
R/o. : DCC Bank, Ahilyanagar.
2. Sudhirrao Vasantrao Lahare
Age : Major, Occu. : Business
3. Vijayrao Bhanudas Dandavate
Age : Major, Occu. : Business
4. Babasaheb Dada Dange
Age : Major, Occu. : Business

5. Narayan Dnyaneshwar Karle
Age : Major, Occu. : Business
6. Gangadhar Pandurang Dange
Age : Major, Occu. : Business
7. Sampatrav Kachru Hinge
Age : Major, Occu. : Business
8. Balasaheb Kundlik Cholke
Age : Major, Occu. : Business
9. Mahendra Changdevrav Gorde
Age : Major, Occu. : Business
10. Nanasaheb Kashinath Nale
Age : Major, Occu. : Business
11. Vishnupant Shankarrao Shelke
Age : Major, Occu. : Business
12. Arundhatitai Arvindrao Fopse
Age : Major, Occu. : Business
13. Anilrao Sopanrao Gadhve
Age : Major, Occu. : Business
14. Sampatrav Nathaji Choudhary
Age : Major, Occu. : Business
15. Shobhatai Eknathrao Gondkar
Age : Major, Occu. : Business
16. Kamalatai Pundlikrao Dhanvate
Age : Major, Occu. : Business
17. Madhukarrao Yashwantrao Satav
Age : Major, Occu. : -
18. Aaleshrao Shantvan Kapse
Age : Major, Occu. : Business
19. Anilrav Rajaram Tilekar
Age : Major, Occu. : Business

20. Dnayndev Bajirao Cholke
Age : Major, Occu. : Business
21. Pradeshik Sah Sanchlak (Sakhar) **..(Deleted)**
Age : Major, Occu. : Business
22. N. R. Bhosale
Age : Major, Occu. : Business
23. G. V. Shinde
Age : Major, Occu. : Business

All above R/o. : Shri Ganesh Sahakari
Sakhar Karkhana Limited,
Ganeshnagar, Ranjangaon,
Tq. Rahata, Dist. Ahilyanagar

24. Shri Ganesh Sahakari Sakhar
Karkhana Ltd., Ganesh Nagar,
Tq. Rahata, Dist. Ahmednagar,
Through its Incharge, Managing Director,
Nitin Ramchandra Bhosale
Age : 50 years, Occu. : Service,
R/o. Ganeshnagar, Tq. Rahata,
Dist. Ahmednagar, Maharashtra.
25. The Sub Registrar,
Kopargaon, District Ahilyanagar,
Mr. P S Kausalkar
Age : 50 years, Occu. : Service,
R/o. : Sub Registrar (Grade-I)
Office, Kopargaon.

.. Respondents

Mr. Pralhad D. Bachate, Advocate a/w Mr. Abhinay D. Khot,
Advocate for the Petitioner.

Mr. R. N. Dhorde, Senior Advocate i/b Mr. V. R. Dhorde, Advocate
for Respondent No. 1.

Mr. R. L. Kute, Advocate for Respondent Nos. 2 to 20, 22 to 24.
Smt. Kalpalata Patil-Bharaswadkar, Addl.G.P for Respondent
No. 25.

CORAM : KISHORE C. SANT, J.

Date on which reserved for order : 05th December, 2025.

Date on which order pronounced : 19th December, 2025.

FINAL ORDER :-

1. In both these petitions, the petitioner and respondent No. 1 are the same. The contempt alleged is of the same order and for this reason both the petitions are taken up together by consent of the parties.
2. Both these contempt petitions are filed alleging contempt of an order passed by the learned Arbitrator dated 02.09.2024 in arbitration proceedings by way of interim relief. This Court initially had made a query about maintainability of the petitions for contempt of the order passed by the learned Arbitrator. The petitioner relied upon the judgment of the Hon'ble Apex Court in the case of Urban Infrastructure Real Estate Fund Vs. Dharmesh S. Jain and another, (2022) 6 SCC 662. This Court in view of the same issued notice in Contempt Petition No. 221/2025. In Contempt Petition No. 793/2025 this Court issued notice on 06.10.2025.

3. Heard learned advocate Mr. Bachate for the petitioner, learned senior advocate Mr. Dhorde for respondent No. 2 in C.P No. 221/2025 and for respondent No. 1 in C.P No. 793/2025, learned advocate Mr. Kute for respondent No. 1 in C.P No. 221/2025 and for respondent Nos. 2 to 20 & 22 to 24 in C.P No. 793/2025 and learned Addl. G. P for respondent No. 3 in C.P No. 221/2025 and for respondent No. 25 in C.P No. 793/2025.

4. In Contempt Petition No. 221/2025, the allegation is that the respondent Nos. 1 and 2 have flouted the order passed by the learned Arbitrator by mortgaging the property of the sugar factory and while obtaining the loan from the bank – respondent No. 2 in Contempt Petition No. 221/2025. The Contempt Petition No. 793/2025 is also a contempt alleged for disobeying the same order by creating mortgages in favour of the bank subsequent to filing of the first contempt petition. The modified order of which contempt is alleged reads as below :

- a. The Application dated 01/09/2023 filed by the Claimant is partly allowed;
- b. The Respondent is restrained from creating third party interest / alienating the suit property mentioned in paragraph no. 24 of the Statement of Claim by way of Sale/Lease/Permanent Transfer of any kind of the suit property

and also for the purpose of any capital investment in relation to expansion and / or modernization of the suit property / Respondent No. 2 Factory, from the date of this order till the disposal of present arbitration proceedings **or till compliance of order clause 'c' hereinbelow, whichever is earlier.**

c. The Respondent is directed to furnish bank guarantee of any nationalized bank of Rs. 17.06 Crores before this Tribunal within a period of one month from date of this order.

d. The order be communicated to the parties of the present Arbitration proceedings.

e. Matter be taken on 19th September 2024 at 11.30 am for further consideration.

5. The facts in short are that the petitioner sugar factory was running respondent No. 1 sugar factory for some time by entering into an agreement. Lateron, certain disputes started between the parties. Therefore, the parties approached the learned Arbitrator who happens to be Sugar Commissioner, Maharashtra State, Pune. The learned Arbitrator passed interim order as reproduced above. It is the allegation in the contempt petition that, in spite of the order, the sugar factory created mortgage on 02.12.2024 and 23.01.2025. Thereafter, Contempt Petition No. 221/2025 was filed. This Court issued notice on 07.03.2025. Even thereafter third mortgage came to be created in favour of DCC bank on 02.09.2025. Thereafter fourth mortgage was created and thus the

second contempt petition was filed on 30.09.2025. In Contempt Petition No. 793/2025, notice was issued on 06.10.2025.

6. The learned advocate Mr. Bachate for the petitioner submits that, the respondent – bank and the sugar factory are the parties to the arbitration proceedings. They are aware of the restraintment order passed by the Commissioner, Sugar i.e. Arbitrator wherein, there is specific order directing not to create third party interest and not to alienate the property of the sugar factory. In spite of this direction, the sugar factory obtained loan and for obtaining loan they executed a mortgage deed mortgaged in favour of the bank. He further submits that, even after issuance of notice in the first contempt petition, twice mortgage was executed and therefore, second contempt petition is filed. He submits that, for the loan transaction and for executing mortgage, respondent No. 3 in C.P. No. 221/2025 and respondent No. 25 in C.P. No. 793/2025 has granted no objection certificate when he has personal knowledge that as Arbitrator the Commissioner himself has granted interim relief in favour of the petitioner. He thus submits that, there is clearly a contempt committed by the Karkhana and bank. He submits that, the action

be taken under the Contempt of Courts Act.

7. The learned senior advocate Mr. Dhorde for respondent No. 2 vehemently submits that, the order is only not to transfer the property of the sugar factory and not to create third party interest. There is no specific order restraining the sugar factory from creating a mortgage on the property. He further submits that, no natural person is made a party to first petition. In the second petition, though natural persons are made parties, there is no specific averment as to in what capacity and in what manner the contempt is committed by each of the persons. It was necessary to point out specific knowledge to the respondents and in spite of knowledge they have done some act with an intention to commit contempt of the order passed by the learned Arbitrator.

8. The parties have relied upon few judgments.

9. In the case of **Urban Infrastructure** (*supra*), it was a case that the learned Arbitrator had passed an order in the arbitration proceeding. When the matter was carried to the Court, the Court had issued mandatory direction directing the alleged contemnors therein to deposit 50% of the sum awarded in the arbitration. It is

that order which was flouted. It is seen that, there the order was passed by the Court in the arbitration proceedings and not an order passed by the learned Arbitrator of which contempt is alleged. This Court, however, need not go at this stage into details for the reasons stated now onwards.

10. The learned senior advocate Mr. Dhorde for respondent No. 2 distinguishes the judgment in the case of Urban Infrastructure (*supra*). He submits that, in the said case, the order of the Court was flouted and therefore, it was held that the petition is maintainable. There is nothing to show that the contempt of the order passed by the learned Arbitrator was entertainable.

11. The learned advocate Mr. Kute for respondent No. 1 by relying upon the judgment in the case of Alka Chandewar Vs. Shamshul Ishrar Khan, (2016) 1 Mh.L.J. 52 submits that, this Court in the said case held that, section 27 (5) of the Arbitration and Conciliation Act does not give power to the Tribunal to make representation to the Court for contempt of orders including interim order passed by the Arbitrator if violated by the party. It

is available only in respect of taking evidence. In the said judgment it is further held that, Arbitral Tribunal is not a Court for the purpose of contempt.

12. In the case of Engineering Mazdoor Sabha and another Vs. Hind Cycled Ltd, AIR 1963 SC 874, the said judgment is in respect of the Arbitral Tribunal under the Act. The Full Bench of the Hon'ble Apex Court considered as to whether the order of the Tribunal can be said to be an order against which contempt petition would lie. The Hon'ble Court compare the Industrial Tribunal as against the Arbitral Tribunal. It is held that, though the decision of the Arbitrator or Arbitral Tribunal is quasi judicial, still it cannot be said to be Court. In that view it is held that, the Arbitral Tribunal's orders cannot be taken to be orders passed by the Court and therefore, no contempt would be maintainable.

13. This Court finds force in his argument. On the point of conduct of the petitioner he relied upon the judgment in the case of Dr. Vijay Kumar Kathuria Vs. State of Haryana and others, AIR 1983 SC 622. In the said case, the petitioner had sought order of status quo by making false representation. It is held that, the

petitioner would not be entitled to any relief in view of his conduct and behavior before the Court.

14. In the case of **T. Vijendradas & Anr. Vs. M. Subramanian & Ors., 2008 (1) ALL MR 446**, the Court considered the proceedings in the Court. The Court considered as to whether fraud was alleged in the proceeding in the Court. It is held that, decree and order obtained by playing fraud on the Court is a nullity.

15. The argument of the learned senior advocate is that the order of issuance of notice itself is obtained by suppressing a material fact and by misleading the Court by relying upon the case in the case **Urban Infrastructure** (*supra*).

16. The facts in the petition are not disputed that the mortgage is created on two occasions even after passing the order in the first contempt petition. Be that as it is, this Court has to consider one other aspect that during the course of argument this Court time and again asked the learned advocate for the petitioner as to why no natural person is made a party in the first petition. There is no satisfactory answer coming. It was pointed out that unless natural person is made a party, no action of contempt can be taken against

the juristic person. So far as second petition is concerned, it is not pointed out as to what is the role played by each of the person and how case of contempt is made out against any single individual. There is no averment in the petition in spite of making several time such queries. No satisfactory answer is given by the learned advocate for the petitioner.

17. Considering all above discussion and the fact the, no natural person is made a party in the first petition and there is no specific averment in the second petition against individual natural person, this Court thinks it fit to dismiss the petitions as not maintainable.

18. Both the contempt petitions stand dismissed. No order as to costs.

(KISHORE C. SANT, J.)

PS.B.