

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1600 OF 2022

IN

WRIT PETITION NO.12582 OF 2019

Pratima Prasanna Raskar & Anr.	...Applicants
<u>In the matter between</u>	
Trupti Bhaskar Guha	...Petitioner
<i>Versus</i>	
Union of India & Ors.	...Respondents

WITH

INTERIM APPLICATION NO.3491 OF 2022

IN

WRIT PETITION (ST) NO.93258 OF 2020

Pratima Prasanna Raskar & Anr.	...Applicants
<u>In the matter between</u>	
Shalini Nilkanth Raskar & Anr.	...Petitioners
<i>Versus</i>	
The State of Maharashtra & Ors.	...Respondents

WITH

SUO MOTU CONTEMPT PETITION NO.1 OF 2025

High Court on its Motion	...Petitioner
<i>Versus</i>	
Shalini Nilkanth Raskar & Ors.	...Respondents

Mr. Shekhar Jagtap a/w. Ms. Sairuchita Chowdhary and Mr. Akash Pandey i/b. J. Shekhar Associates, for the Applicants/Intervenors in IA/1600/2022 and IA/3491/2022.

Mr. Rushabh Vidyarthi a/w. Mr. Harshavardhan G. Khambete, for the Contemnors/Respondent Nos.1 to 3.

Ms. Gunjan Shah, for the Respondent No.4 in WPST/93258/2020 and for the Respondent No.6 in WP/12582/2019.

Ms. P. J. Gavhane, AGP, for the Respondent Nos.3, 4 and 5-State in IA/1600/2022 in WP/12582/2019.

Ms. Tejas Kapre, AGP, for the Respondent Nos.3, 4 and 5-State in IA/3491/2022 in WPST/93258/2020.

Mr. Nilkanth Raskar, the Respondent in Suo Motu Contempt Petition No.1 of 2025 and the Respondent No.2 in IA/1600/2022 and IA/3491/2022.

Ms. Shalini Nilkanth Raskar, the Petitioner in WP(ST)/93258/2020 and the Respondent in Suo Motu Contempt Petition No.1 of 2025.

Ms. Trupti Bhaskar Guha, the Petitioner in WP/12582/2019 and for the Respondent in Suo Motu Contempt Petition No.1 of 2025.

**CORAM: MADHAV J. JAMDAR &
GAURI GODSE, JJ.
(IN CHAMBER)**

DATED : 29th APRIL 2025

P.C.:

1. The widow and the son of the deceased Prasanna Raskar have filed these Applications. The Applicants have prayed to recall and set aside the order dated 22nd October 2020 accepting the Consent Terms and disposing of the Writ Petitions in terms of the Consent Terms. By way of the Consent Terms, the amount due and payable from the Respondent-Sugar Factory as pleaded and prayed in the Writ Petitions is paid by the Respondent-Sugar Factory to the Petitioners in the Writ Petition.

2. It is the Applicants' contention that the said amount was due and payable to deceased-Prasanna Raksar. Thus, according to the

Applicants, they, being the heirs and legal representatives of the deceased, are entitled to receive the amount. The Applicants in the applications thus have contended that the Consent Terms were drafted without adding them as parties to the Writ Petition and without disclosing the pending dispute between the Applicants and the Petitioners. The Applicants contended that the dispute between the parties with regard to the properties and the amounts due and payable to the deceased-Prasanna Raskar, was deliberately not brought to the notice of this Court in the consent terms. Hence, it is contended by the Applicants that by playing fraud and by misrepresenting and suppressing the material facts, the Consent Terms were placed before this Court. Since the Consent Terms are accepted based on the submissions and averments disclosed by the Petitioners and the Respondent-Sugar Factory, the amount due and payable to the Applicants is paid to the Petitioners.

3. Learned Counsel for the Applicants pointed out that the suit proceedings between the Applicants and the Petitioners are still pending before the Civil Court. He pointed out the relevant averments in the Petition regarding the pending dispute. However, he submits that material averments regarding the dispute and the

claim arising out of the amount due and payable to deceased Prasanna Raskar are not mentioned in the Consent Terms. Hence, the Applicants have prayed to recall the order accepting the Consent Terms.

4. Considering the facts of the case, we had issued Sua Motu Contempt Notice against the Petitioners vide order dated 19th December 2024 on the ground that material facts were suppressed from this Court when the Consent Terms were filed. In response to the Sua Motu Contempt Notice, the Petitioners filed their affidavit dated 26th February 2025, which was taken on record on 28th February 2025. The contentions in the affidavit were mainly on the merits of the dispute between the parties, and there was no specific response to the grounds for issuing the Sua Motu Contempt Notice. Paragraph 17 of the affidavit dated 26th February 2025, in fact, also stated that the approach of the Applicants was nothing but forum shopping. Hence, we had expressed our displeasure with the submissions made in the affidavit. Learned Counsel for the Petitioners had therefore requested time to file a fresh additional affidavit.

5. Accordingly, a fresh additional affidavit by all three Contemnors was tendered on 2nd April 2025. We have perused the additional affidavit. In the additional affidavit, the Petitioners have tendered an unconditional apology and have sought to explain the reasons for filing the Consent Terms. We are not inclined to get into the merits of the dispute between the parties. However, considering the unconditional apology tendered in the additional affidavit, we accept the apology tendered on behalf of the Petitioners and do not wish to proceed further with the Suo Motu Contempt Notice. Hence, by accepting the unconditional apology tendered by the Petitioners, no further action is necessary on the Suo Motu Contempt Notice.

6. So far as the application for recalling the order accepting the Consent Terms is concerned, we find it necessary to record a few relevant facts that emerge from the record. The Petition was filed on the ground that the Petitioners are beneficiaries of the Will executed by the deceased Prasanna Raskar. In the memo of the Writ Petition, the Petitioners have pleaded that they claim benefit under the Will. The Petition further also mentions the dispute between the Applicants and the Petitioners with regard to the

amounts payable by the Respondent-Sugar Factory towards the Sugarcane crops cultivated in the disputed suit property, which admittedly stands in the name of deceased-Prasanna Raskar.

7. Thus, considering the averments in the Petition, it is clear that while drafting the Consent Terms, the Petitioners have not disclosed the dispute between the Petitioners and the Applicants. The Petitioners have also not disclosed that the suit challenging the legality and validity of the Will, based on which the Petitioners were claiming rights in respect of the property in dispute, was still pending. It is not disputed that the amount received from the sugar factory pertains to the sugarcane crop cultivated on the land belonging to the deceased Prasanna Raskar. Therefore, it was necessary for the Petitioners and the Respondent-sugar factory to state all the true and correct facts in the consent terms regarding the dispute between the parties on the amount due and payable by the sugar factory. Thus, we are of the opinion that in the event the dispute was highlighted in the Consent Terms and true and correct facts were disclosed, there would be no reason to accept the Consent Terms in the absence of the Applicants.

8. By way of the Consent Terms, the Respondent-Sugar Factory has made payments towards the dues for the Sugarcane crops to the Petitioners. The amounts are directly paid by the Sugar Factory to the Petitioners. Considering the contentions of the Applicants, the relevant clause 9 of the Consent Terms was reproduced, in our order dated 19th December 2024, which reads as under:

“9. The following Suits before the learned Civil Courts:

(i) Regular Civil Suit No. 143 of 2012 before the learned Civil Judge, Senior Division, Malshiras for declaration that Trupti Guha has become the owner and entitled to the properties more particularly mentioned in the Last Will and Testament dated 25.05.2009 of Late Shri Prasanna Jagannath Raskar;

(ii) Regular Civil Suit No. 340 of 2016 before the learned Civil Judge, Senior Division, Malshiras seeking recovery of Bill amounts of the sugarcane supplied to Respondent No. 4 - Sugar Factory.

The Petitioners and Mr. Nilkanth Raskar hereby agree and undertake to withdraw the above Suits as against the Respondent No. 4- Sugar Factory unconditionally. Name of the defendant and Resp. No. 4- Sugar Factory will be withdrawn from the regular Civil Suit 143 of 2012, not the entire suit.”

9. Thus, it is clear that the Petitioners, without disclosing the pendency of the suit raising a challenge to the Will in favour of the Petitioners, drafted the Consent Terms. Hence, we are of the opinion that the Applicants' rights are adversely affected in view of the Consent Terms. Hence, we find it appropriate to recall the order accepting Consent Terms and restore the Writ Petition to the file for hearing on merits.

10. For the reasons recorded above, the applications are allowed, and the order dated 22nd October 2020 accepting the Consent Terms and disposing of the Writ Petitions in terms of the Consent Terms is recalled. The Writ Petitions are restored to the file.

11. The unconditional apology tendered by the Petitioners is accepted. Hence, the suo moto contempt petition is disposed of.

12. In view of the recall of the order accepting the Consent Terms, the Petitioners are directed to deposit the amounts received pursuant to the Consent Terms in this Court within eight weeks from today.

13. The office is directed to place the Writ Petitions before the regular Court as per the assignment.

14. Since we have allowed the present applications where the Applicants have prayed for intervening in the Writ Petitions, we direct that the Petitioners shall add the present Applicants as party-Respondents in the Writ Petitions. Amendment to be carried out within four weeks. Amended copy shall be served upon all the parties.

15. Accordingly, the Interim Applications are disposed of in above terms, with no order as to costs.

[GAURI GODSE, J.]

[MADHAV J. JAMDAR, J.]

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