

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CONTEMP PETITION NO.308 OF 2024
IN
WRIT PETITION NO.1202 OF 2027
WITH
INTERIM APPLICATION NO.2677 OF 2025**

Ranjan Bhausahab Dombé
Age: 55 years, Occu.- Agriculturist and Business,
R/at Rukmini Nagar, Pandharpur,
Tal. Pandharpur, Dist: Solapur,
Dist. Solapur. ..Petitioner

Versus

1. Mahesh Devidas Sathe,
Age: 45, Occupation: Business,
R/at Jagdamba Nagar, Vithai Construction,
Taksli Road, Tal. Pandharpur.
2. Balasaheb Ramesh More,
The Circle Officer,
Kasegaon, Tal. Pandharpur, Dist. Solapur,
To be served at Javala, Tal-Sangola,
Dist. Solapur.
3. Vijaykumar Bhagwat Jadhav,
The Talathi,
Kasegaon, Tal. Pandharpur,
Dist. Solapur. ..Respondents/Contemnor

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Mr. Machhindra A. Patil i/by Ms. Manisha Devkar, Advocate for
Petitioner.
Mr. Sanjay D. Rayrikar, AGP for Respondent Nos.2 and 3.
Ms. Pradnya Talekar h/f Mr. Umesh Kurund, Advocate for Respondent
No.1.

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CORAM : S. G. CHAPALGAONKAR, J.

**RESERVED ON : 16th SEPTEMBER, 2025.
PRONOUNCED ON : 18th SEPTEMBER, 2025.**

FINAL ORDER:-

1. The petitioner seeks to hold respondent nos.1 to 3 guilty of having committed contempt of this Court by disobeying order dated 22.04.2019 passed in Writ Petition No.1202/2017 and deal with under Section 12 of Contempt of Courts Act.

2. According to petitioner, land admeasuring 0.81R having Gut No.103/2B/2B/2 situated at village Kasegaon, Taluka Pandharpur, District Solapur was subject matter of Regular Civil Suit No.11/2013 before learned Civil Judge Senior Division at Pandharpur. According to petitioner, one Bajarang Bagal acquired ownership of land under sale deed dated 29.02.2005. The present petitioner acquired title over suit land in pursuance to registered sale deed dated 23.10.2008 executed by Mr. Bajarang Bagal. The respondent no.1 instituted Regular Civil Suit No.11/2013 seeking declaration and injunction against petitioner claiming that Mr. Maruti Deshmukh prepared false revenue record of Gut No.103/2B/2B/2 and sold land to predecessor of title of petitioner. The transaction in favour of petitioner is fraudulent. In said suit application for temporary injunction filed by plaintiff was rejected. However, learned District Judge allowed Miscellaneous Civil Appeal No.47/2014 and granted injunction vide order dated 05.01.2017. Aggrieved petitioner filed Writ Petition No.1202/2017 before this Court. Writ Petition was taken up for hearing on 22.04.2019. After hearing parties, Rule has been issued and interim order came to be passed directing both parties to maintain status quo in relation to suit

property and not to raise construction or seek to create any third party right.

3. Mr. Machhindra Patil, learned Advocate appearing for petitioner submits that in wake of aforesaid order, respondent no.1 created third party interest by executing registered mortgage in favour of Bank towards security of loan obtained by them. Eventually, entries of charge of Bank have been recorded in other rights column of record of right in respect of suit land. Thus, respondents have indulged into act of disobedience of order that invites punishment in terms of Section 12 of Contempt of Courts Act.

4. The respondent no.1 filed his affidavit-in-reply contending that on 29.04.2022 this Court passed order in Writ Petition No.5127/2022, wherein it was inadvertently recorded that “*Rather it is in the interest of both the parties that alienation of suit property is permitted till disposal of the suit*”.

5. In light of aforesaid order, respondent no.1 was wrongly advised that there is no impediment for obtaining loan on suit property or creating charge. Due to this misconception, loans were obtained on 12.03.2020 and 18.05.2022 and charge was created. However, after receiving notice of Contempt Petition, immediately steps were taken to release charge, so also cleared mutation record. The respondent no.1

has tendered unconditional apology and undertook not to commit such mistake in future.

6. The learned Advocate appearing for petitioner relying upon observations of Division Bench of Karnataka High Court in case of *Sri. Somanna and Ors. Vs. Late T. M. Mahadevappa and Ors.* (C.C.C. No.846/2017 (Civil) decided on 03.02.2023) submits that when contemnor has clearly and willfully breached interim order passed by Court, it is not only power, but duty of Court to uphold and maintain dignity of Court and majesty of law and to take strict view without hesitating in wielding potent weapon of contempt committed. He would submit that only because respondent no.1 has tendered his apology, he cannot escape from punishment for contempt committed by him. He would, therefore, urge to punish respondent no.1/contemnor and impose maximum sentence of imprisonment and fine in terms of Section 12(1) of Contempt of Courts Act.

7. Per contra, Ms. Pradnya Talekar, learned Advocate appearing for respondent no.1/contemnor would submit that Regular Civil Suit No.11/2013 filed by respondent no.1 has been withdrawn and now suit property is subject matter of Regular Civil suit No.61/2021, which is freshly filed seeking declaration of his ownership. She would further submit that respondent no.1 has candidly admitted his mistake arising out of incorrect advise based on misinterpretation of order dated 29.04.2022 passed by this Court in Writ Petition No.5127/2022.

However, he immediately took corrective steps after noticing his mistake and cleared charge over suit property. No prejudice has been caused to petitioner. She would, therefore, urge to reject Contempt Petition by accepting unconditional apology. According to her, behaviour of contemnor and remorse or regret on his part would be relevant consideration while deciding issue of contempt. This is not a case where respondent no.1 has over-reached process of Court or done act in willful violation or order of Court. Hence, this is a fit case to accept unconditional apology and drop proceeding.

8. Having considered submissions advanced by learned Advocates appearing for respective parties, controversy in present Contempt Petition is limited, as respondent no.1-contemnor has committed act of creating third party interest over suit property in wake of prohibitory order of injunction passed by this Court, however, seeks his discharge with folded hands giving reason of bonafide mistake, which has been corrected by taking necessary steps for reversal of mortgage/charge created in defiance of injunction order.

9. Scheme under Section 12 of Contempt of Courts Act provides for punishment of simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both, in case person is held guilty of contempt. Proviso to Section 12 suggests that accused may be discharged or punishment awarded may be remitted on apology being made to satisfaction of Court.

Explanation further provides that an apology shall not be rejected merely on ground that it is qualified or conditional if accused makes it bonafide.

10. Supreme Court of India in case of *Priya Gupta and Anr. Vs. Additional Secretary, Ministry of Health and Family Welfare and Ors.*¹ in paragraph no.11 laid down principles governing consideration of apology as contemplated under Explanation to Section 12(1) of Contempt of Courts Act and observed that while considering apology and its acceptance, the Court *inter alia* considers (a) conduct of contemnor prior and subsequent to tendering of apology. If conduct is contemptuous, prejudicial and has harmed system and other innocent persons as a whole, it would be a factor which would weigh against the contemnors; and b) stage and time when such apology is tendered.

11. In light of aforesaid principles, it can be observed in present case that although respondent no.1 had obtained loan against suit property and created third party interest of Banks by way of charge, immediately on receipt of contempt notice, he took corrective steps for release of property and removal of charge of Banks. At present, property is free of charges or third party interest. Hence, no harm or prejudice is caused to petitioner.

12. The respondent no.1 has tendered unconditional apology for his contemptuous act with explanation that he received incorrect advise

¹ (2013) 11 SCC 404.

out of misinterpretation of inadvertent wordings incorporated in order dated 29.04.2022 passed by this Court in Writ Petition No.5127/2022. It is true that, in paragraph no.11, there is wording that rather it is in interest of both parties that alienation of suit property is permitted till disposal of suit, possibility that respondent no.1 has received wrong advice due to such wordings cannot be disbelieved. In this background, when respondent no.1 has taken corrective steps to prevent prejudice to petitioner, this Court do not find any reason to proceed further with present Contempt Petition and deems it proper to accept unconditional apology tendered by respondent no.1. However, if facts of case petitioner needs to be awarded compensatory cost as respondent no.1 took corrective steps to purge contempt after receipt of contempt notice. In result, Contempt Petition is **rejected** with cost of Rs.25,000/- (Rs.Twenty Five Thousand only) to be paid by respondent no.1 to petitioner within period of one month from date of this order.

13. In view of dismissal of Contempt Petition, pending Interim Application also stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE