

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.327 OF 2025

Khushi Alloys Private Limited

.. Petitioner

Versus

Modella Textile Industries Private Limited and
Ors.

.. Respondents

.....

- Mr. Sidharth Samantaray a/w. Ms. Kalyani Wagle, Advocates i/by
T. N. Tripathi & Co. for Petitioner.

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 24, 2025

P.C.:

1. Heard Mr. Samantaray, learned Advocate for Petitioner.
2. Present Contempt Petition is filed for alleged contempt of three specific orders namely orders dated 18.06.2013, 18.01.2014 and 16.12.2024 passed in the suit for specific performance bearing No.310 of 2013 filed before the Civil Court. Record *prima facie* indicates that said suit has been disposed of and rights of the parties have been crystalised.
3. Petitioner, if aggrieved with the disposal order of said Suit is entitled to file appropriate Appeal before the Appellate Court. Having not filed the said Appeal, the Petitioner has invoked the contempt jurisdiction of this Court, *inter alia*, pleading that three aforesaid interim orders were passed in the specific performance Suit and they have been breached by Respondents.

4. According to Mr. Samantaray, learned Advocate appearing of the Petitioner, Respondents have stepped into the shoes of original Defendant having purchased the property in Corporate Insolvency Resolution Process (for short '**CIRP**') proceedings through the forum of the Court.

5. He would submit that they would be governed by the interim orders passed in the Suit despite the disposal of the Suit, in view of a decision of the Supreme Court in the case of *Lavanya C and Another Vs. Vittal Gurudas Pai Since Deseased by Lrs. and Others*¹. Copy of the judgment is placed before the Court.

6. Mr. Samantray would submit that despite the Suit having been disposed of, if interim orders are not adhered to and breached by the Respondents, the Court can still look into the action of Respondents which would primarily be in contempt of the orders passed by the Civil Court and invoke necessary action.

7. On reading the aforesaid decision of the Supreme Court on which reliance is placed it is *prima facie* seen that the facts in that case related to a continuous cause of action based upon a development agreement entered into between the parties, *inter alia*, relating to construction of residential apartments over a substantial period of time on a turnkey basis and therefore the rights and obligations of parties

¹ 2025 SCC Online SC 499 [Civil Appeal No.13999 of 2024 (Arising out of SLP (c) No.13875 of 2021) decided on 05.03.2025.]

were governed by virtue of the said interim orders determining rights and obligations of the concerned parties.

8. Such is not the case before me in the present facts and circumstances. In the present case specific performance Suit having been decreed / disposed of by Civil Court enures to the benefit of the party in whose favour it has been decreed. The aggrieved party undoubtedly has the right to file statutory First Appeal as available to it in law.

9. Invocation of contempt jurisdiction in respect of the ad-interim / interim orders passed in the above disposed of suit, in my opinion is nothing but an abuse of the due process of law. In that view of the matter, I am not inclined to accept the submissions made by Mr. Samantaray.

10. In view of the above observations, Contempt Petition is dismissed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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