

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.48 OF 2024

IN

WRIT PETITION NO.3168 OF 2023

Chandrashekhar Nathuram Sakpal & Ors. ...Petitioners

Vs.

Gold Plaza Developers Pvt Ltd. & Ors. ...Respondents

WITH

INTERIM APPLICATION (L) NO.34316 OF 2024

IN

CONTEMPT PETITION NO.48 OF 2024

M/s. Gold Plaza Developers Pvt Ltd. & Ors. ...Applicants

In the matter between :

Chandrashekhar Nathuram Sakpal & Ors. ...Petitioners

Vs.

M/s. Gold Plaza Developers Pvt Ltd. & Ors. ...Respondents

WITH

INTERIM APPLICATION (L) NO.30309 OF 2024

IN

CONTEMPT PETITION NO.48 OF 2024

Santosh Vasudeo Sawant ...Applicant

In the matter between :

Chandrashekhar Nathuram Sakpal & Ors. ...Petitioners

Vs.

Gold Plaza Developers Pvt Ltd. & Ors. ...Respondents

AND

(NOT ON BOARD) CONTEMPT PETITION (L) NO.38265 OF 2024

IN

INTERIM APPLICATION (L) NO.6899 OF 2023

Santosh Vasudeo Sawant ...Petitioner

Vs.

Gold Plaza Developers Pvt Ltd. & Ors. ...Respondents

Mr. Jamshed Master i/b. Mr. Mangesh D. Chavan, for the Petitioner in CONPW/48/2024.

Mr. Santosh Sawant, for the Petitioner in CONPWL/38265/24.

Mr. Abhijeet Joshi i/b. Ms. Varsha Sawant, for the Applicant in IAL/6899/2023

Mr. Rohan Savant i/b. Kiran Jain & Co., for Respondent No.1.

Mr. Duj Jain i/b. Kiran Jain & Co., for Respondent Nos.2 and 3.

Mr. Yogesh Patil i/b. Mr. Abhijit M. Patil, for Respondent No.5-S.R.A.

Mr. Vishal Khanavkar, AGP for Respondent-State.
 Ms. Pushpa Yadav i/b. Kamal Punjabi, for the Respondent-BMC.

CORAM: G. S. KULKARNI &
 MANJUSHA DESHPANDE, JJ.
DATE: 20 AUGUST, 2025.

P.C.

1. Contempt Petition Lodging No.38265 of 2024 is not on board. Upon being mentioned on behalf of the Petitioner, taken on board.
2. This contempt petition is filed alleging contempt of an order dated 20th October 2023 passed by a Co-ordinate Bench of this Court. The relevant paragraphs of the order of which contempt is alleged are required to be noted which read thus :

“9. As regards accumulated arrears, he stands by the statement made to the Court and noted in an order dated 21st August 2023 in paragraph no.2 that these arrears would be cleared in full by March 2024.

10. At this stage, a submission is made on behalf of the Petitioners that there is a dispute as to whether an 11% annual increase is or is not agreed. This was noted inter alia in the order of 21st August 2023 and in our order of 22nd June 2023 as well. There is also a dispute about whether the monthly rent has in fact been paid until October 2023. We note this because this matter was not even scheduled today. It is listed at the instance of the Petitioners seeking supposedly urgent intervention and orders of this Court.

11. Previously, leaving aside all questions of maintainability, we attempted to arrive at some sort of a workable solution. Yet the Petitioners insist that they do have a public law remedy and are entitled to these reliefs in exercise of our extra ordinary equitable discretion under Article 226 of the Constitution of India. We are unable to see how that discretion can be invoked in this manner to enforce what is entirely a private law remedy on thoroughly disputed questions of fact. Section 91-A cannot apply where there are such disputed questions of fact. It is not shown to us, for instance, that clauses (a), (b) and (c) are unequivocally correct or applicable, particularly having regard to the situation of slow down or stoppage of work during the COVID period.

12. We are not inclined to interfere or to grant further orders. We dispose of the Petition but reserve to the Petitioners and the Intervenor, represented by Mr Joshi, liberty to adopt appropriate proceedings in jurisdictionally competent civil court and to move the matter even for urgent ad-interim reliefs after adequate notice to the advocates for the Respondents. We however direct that all the previous commitments given by the developer to the Court and accepted by the Court will continue until

further orders of the Court. This includes the obligation to clear all arrears of transit rent by March 2024 and to pay the monthly transit rent every month on schedule.

13. *The Petition is disposed of in these terms. No costs."*

3. The contempt proceedings were substantively heard by a Co-ordinate Bench of this Court on 25th September 2024, when the following order came to be passed :

"1. In terms of our orders dated 21 August 2023 and 20 October 2023, the Contemnor had to clear the arrears in full by March 2024. This direction has been breached. Instead, an application was belatedly filed seeking extension of time up to August 2024 to clear the arrears in full.

2. Today when this Petition is taken up, we would have accepted the Contemnor to present a Demand Draft covering the entire arrears which have, according to the Contemnor, run up to about Rs.3 crores. Instead, learned counsel for the Contemnor based on instructions from Respondent No.1, offers to pay only Rs.25 lakhs. This is completely contumacious. This indicates that even the application for extension of time was made only to buy time and not genuinely pay the arrears even within the extended period.

3. Mr Rohan Savant, on instructions from Respondent No.1 states that an amount of Rs.1 crore will be paid on 30 September 2024. He states that a further statement would be made on the affidavit regarding clearance of the balance amount.

4. We list this matter on 30 September 2024 for directions. On 30 September 2024, all the Contemnors must personally remain present in this Court."

4. Thereafter the proceedings were listed before a Co-ordinate Bench of this Court on 1st October 2024, when the following order was passed :

1. Mr Jain, the learned Counsel for the 1st Respondent today hands in pay orders totally amounting to Rs. 95,98,360/- favouring the Prothonotary and Senior Master of this Court. The Registry to accept the pay orders and deposit them in the appropriate account concerning this matter.

2. Regards the balance amount, the 1st Respondent proposes to following schedule:-

(iii) Rs. 95,48,394/- on or before 11 November 2024.

(iv) Rs. 95,48,394/- on or before 30 November 2024

(v) Balance arrears from May, 2024 onwards will be cleared by 31st December 2024.

3. The learned Counsel for the 1st Respondent, based on instructions from the Contemnors Nos. 2 and 3 who are present in the Court states that the above schedule would be strictly adhered to. The statements made on behalf of Contemnors Nos. 2 and 3 are recorded as undertakings to this Court. The undertakings are accepted and the

contemnors will have to abide by them.

4. Without prejudice to the rights and contentions of all parties, the amount, which the contemnors have today deposited in the Court should be distributed to the 86 tenants as per the schedule set out at Exhibit 'A' to the Affidavit filed by the Contemnors on 28 September 2024. The learned Counsel for the Petitioner states within a week from today bank details would be supplied to the Prothonotary and Senior Master of this Court and the amounts must be directly transferred in to the bank accounts of the tenants. No other mode of payment is permitted.

5. We list this matter on 12 November 2024 to enable the Contemnors to report further compliance."

5. Thereafter, on 13th November 2024, the further order came to be passed by a Co-ordinate Bench of this Court which read thus :

"1) Mr. Dani, learned Senior Counsel appearing for the Respondent Nos.2 and 3 on instructions makes a solemn statement before this Court that, the 3rd installment to be paid to the Petitioner which is due on 11th November 2024, will be paid on or before 19th November 2024. Said statement is accepted.

2) Para No.2(iii) of Order dated 1st October, 2024 is modified to that extent.

3) Stand over to 21st November, 2024.

4) To be listed under the caption "for directions".

5) Prothonotary and Senior Master is directed to accept the said installment of Rs.95,48,394/- as mentioned in para 2(iii) of Order dated 1st October, 2024."

6. On the backdrop of the aforesaid orders, on 21st November 2024, a Co-ordinate Bench of this Court again passed the following order :

"1) Mr. Dani, learned Senior Counsel appearing for the Respondent Nos. 2 and 3, on instructions submitted that, in pursuance of statement made and recorded in para No.1 of Order dated 13th November, 2024, the said Respondents have cleared the outstanding dues upto 13th November, 2024 and has deposited the said amount in the office of the Prothonotary and Senior Master of this Court on 19th November, 2024.

2) Learned counsel appearing for the Petitioners submitted that, as was permitted earlier on 1st October 2024, the Petitioners may be permitted to withdraw the said amount.

3) In view thereof, without prejudice to the rights and contentions of all parties, the amount, which Contemnors have today deposited in the Court should be distributed to the 86 tenants as per the Schedule set out at Exhibit 'A' to the Affidavit filed by Contemnors on 28th September, 2024. The learned counsel for Petitioners states that, within a week from today, bank details would be supplied to the Prothonotary and Senior Master of this Court. The amounts must be directly transferred into the bank accounts of

the tenants. No other mode of payment is permitted.

4) List the matter on Board on 8th January, 2025 to enable the Contemnors to report further compliance.”

7. When the proceedings were listed before a Co-ordinate Bench of this Court on 8th January 2025, considering the nature of the issues as involved in regard to the payment of the arrears of rent and entitlement of the petitioners, the Court, recording that the parties intend to resolve the disputes, passed the following order on 8th January 2025 :

“1) Mr. Sawant, learned counsel appearing for the Respondent No.1 in Contempt Petition Lodging No.48 of 2024 on instructions submitted that, his client will try to resolve the disputes involved in the Petition including the grievance of the Petitioner in Contempt Petition (L) No.38265 of 2024 by tomorrow. The said statement is accepted.

2) Stand over to 10th January, 2025.

3) To be placed under the caption “for directions”.

8. It is on such backdrop, the proceedings are before us today. We have heard learned Counsel for the parties. At the outset, we may observe that Mr. Savant, the learned counsel for respondent no.1 is agreeable for the petitioners to withdraw the amount deposited in this Court as ordered by the Court, in the previous orders as noted hereinabove. We, accordingly, permit the petitioners to withdraw the said amounts. The Office to do the needful. The amounts are permitted to be withdrawn with interest accrued, if any. We also permit the intervenor to withdraw the amounts deposited by respondent no.1 with the MHADA which is stated to be an amount of Rs. 2 lakhs. Let the same be paid by the MHADA to the intervenor within two weeks from today.
9. Insofar as the contentions of the petitioners in regard to the arrears of rent along with the increment and interest, if any, are concerned, it appears that the issue was taken up before the Chief Officer of the M.B.R. & R Board, Mumbai and considering the rival contentions, an order came to passed on 23rd April 2025, whereby respondent no.1 has been directed to pay to the petitioners, who are 87 in number, an amount of Rs. 3,95,03,803/- and an amount of Rs. 4,27,342.16/- to the intervenor as represented by Mr. Joshi.

We find that although such amounts are determined, there is a serious dispute between the parties inasmuch as respondent no.1 contends that the arrears which are arrived at by the Chief Officer in the said order are not the correct arrears as the arrears were required to be calculated as per the terms and conditions as agreed between the parties under the Permanent Alternate Accommodation Agreement, which according to respondent no.1 needs to be, from the date when the tenements for redevelopment work were vacated and handed over to Respondent No. 1. Thus, on one hand, there is a claim for entitlement from the date of the Permanent Alternate Accommodation Agreement as accepted by the petitioners and on the other hand, respondent no.1 has contended that it would be in terms of what has been agreed from the date petitioners vacating their tenements.

10. It is contended on behalf of respondent no.1 that being aggrieved by the order dated 23rd April 2025, an objection has already been filed on 29th April 2025 before the Vice President of the MHADA and the Vice President is seized with the said proceedings. Mr. Master, the learned Counsel for the petitioners submits that the petitioners have raised an objection to the maintainability of such proceedings as filed by respondent no.1 before the Vice Chairman.
11. Be that as it may, we do not intend to dwell on such issues, as it is for the Vice Chairman to decide the dispute as to what would be the actual quantum of the arrears of rent which would become payable. We keep open all contentions of the parties in that regard and it for the Vice Chairman now to take an appropriate call.
12. We may also observe that Mr. Master, on instructions, has fairly stated that the petitioners' entitlement to receive the transit rent as agreed between the parties and subject matter of the decision dated 23rd April 2025, needs to be accepted and the amounts which are determined are required to be paid. We would have certainly accepted this contention of the petitioners when such entitlement was to be determined to be correct by the Vice

Chairman if he confirms that the calculation as arrived at by the Chief Officer was as per the order dated 23rd April 2025, and in accordance with the agreement entered between the parties and/or any acceptable arrangement between the parties. However, insofar as the present petition is concerned, which is alleging contempt of the order dated 20th October 2023, we are of the opinion that the aforesaid facts would clearly indicate that the initial order as also the subsequent orders passed by this Court being complied and the amounts being brought to the Court, and accepted by the petitioners, it cannot be inferred that any intentional disobedience of the orders passed by the Court needs to be attributed to respondent-Contemnors. It appears that ultimately the dispute was on the quantum and the petitioners have also acquiesced in the subsequent orders passed by the Court and eventually, the amounts have come to the Court to which respondent no.1 has no objection for the petitioners to withdraw as noted hereinabove.

13. In this view of the matter, we are not inclined to take this contempt petition any further. We dispose of this contempt petition in terms of the observations. All contentions of the parties arising under the order dated 23rd April 2025, passed by the Chief Officer, are expressly kept open. As already noted, the petitioners are permitted to withdraw the amounts deposited in this Court. As also the intervenor becomes entitled to withdraw the amounts deposited in the MHADA, as noted hereinabove. Thus, further orders are not required to be passed.
14. In this view of the matter, the contempt petition is disposed of. No cost.
15. Mr. Joshi has fairly informed that separate contempt petition was filed by the intervenor which also can be disposed of in terms of the aforesaid order. We dispose of the Contempt Petition Lodging No.38265 of 2024 in terms of the aforesaid order. No cost.

(MANJUSHA DESHPANDE, J.)

(G. S. KULKARNI, J.)