



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CONTEMPT PETITION NO. 02 OF 2022

Sureshchandra Mohanlal Gandhi
Partner, M/s. M.S. Gandhi Ginning
& Pressing Factory,

(Dead through L.Rs.)

- 1 (a) Smt. Tara wd/o Sureshchandra
Gandhi, Aged about 59 years,
Occupation-Homemaker (widow)
R/o. Ward No.5, Main Line, Darwaha,
Tq. Darwaha, Dist. Yavatmal-445202.

Amended as per
Registrar order
dated 14.2.2025.

- 1 (b) Pratik s/o Sureshchandra Gandhi,
Aged about 35 years,
Occupation-Business (son)

- 1 (c) Ankit s/o Sureshchandra Gandhi,
Aged about 32 years,
Occupation-Business (son)

Both R/o. 1000, Main Road, Near
Jain Mandir, Ward No.5, Darwaha,
Tq. Darwaha, Dist. Yavatmal-445202.

.. Petitioners

..Versus..

1. State Bank of India,
Regional Office at Yavatmal,
Through its Authorised Officer,
Rupchand s/o Sadashiv Nandagawli.
2. Omprakash Mohanlal Gandhi
Aged about 60 years,
Occupation-Business.
3. Rahul Omprakash Gandhi
Aged about 37 years,

Occupation-Business,
Both 2 and 3 R/o. Near Jain Mandir,
Wardhaman Nagar, Main Road, Darwaha,
Tah. Darwaha, District-Yavatmal.

4. M/s. Shraddha Trading Company,
Through Proprietor,
Sau. Shobha w/o Omprakash Gandhi
Office at Darwaha, Wardhaman Nagar,
Tq. Darwaha, Dist. Yavatmal.
5. The learned Sub-Registrar, Darwaha
V.L. Rathod, Tq. Darwaha,
Dist. Yavatmal. .. Respondents

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Shri R.L. Khapre, Senior Advocate a/b Shri V.S. Giramkar, Advocate
a/w Shri S.U. Kothekar, Shri Kushal R. Jain and Pratik S. Lingayat,
Advocates for Petitioners.

Shri M. Anilkumar Shankarlal, Advocate for Respondent No.1,

Shri U.J. Deshpande, Advocate for Respondent Nos.2 and 3.

Shri M.G. Sarda, Advocate for Respondent No.4.

Shri M.A. Kadu, Assistant Government Pleader for Respondent No.5.

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CORAM : PRAVIN S. PATIL, J.
RESERVED ON : 11.11.2025.
PRONOUNCED ON : 19.11.2025.

JUDGMENT :

1. By this petition, it is alleged by the petitioner that the respondents have committed the contempt of the order dated 24.2.2014 passed by the Debts Recovery Tribunal, Nagpur (DRT) in Misc. Application No.15/2014 in Securitization Application (SA) No.33/2016 and accordingly appropriate order be initiated against them for disobedience of the order of the Tribunal.

2. In brief the case of the petitioner is that in the year 2000, M/s. M.S. Gandhi Ginning and Pressing Factory, Darwha, District-Yavatmal (Partnership Firm) obtained a loan of Rs.15,00,000/- from the State Bank of India, Yavatmal for establishment of Ginning and Pressing Unit. The business could not generate profits and suffer heavy loss, so also one of the partner namely Sandip Premkishor Gandhi was also expired. In between there was a dispute arose between the parties and the unit was eventually closed down. According to the petitioner, he went to the Bank to settle the loan under One Time Settlement(OTS), but same was not settled by the Bank. On the contrary, the Bank has initiated the action under the Provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act, 2002') and accordingly the property was put to the auction.

3. It is stated by the petitioner that on 18.2.2014, he has requested the Bank to supply the documents, as he learnt that the property has been auctioned. In reply, the bank has communicated to him that on 20.2.2014 the property had already been sold to M/s. Shraddha Trading Company, Darwha and sale certificate was issued in favour of M/s. Shraddha Trading Company, Darwha on 17.2.2014.

4. The petitioner, being aggrieved by the same, preferred the proceeding before the DRT, Nagpur under the provisions of SARFAESI Act. Along with his application, he has moved Misc. Application No.15/2014 for condonation of delay and Interim

Application No.148/2014 for grant of stay during the pendency of the proceeding.

5. According to the petitioner, the learned DRT by the order dated 24.2.2014 by recording the fact that the property has been already sold and sale certificate was issued in favour of the respondents, directed the parties to maintain status quo till the hearing of Interim Application No.148/2014.

6. The record further shows that Misc. Application No.15/2014 was finally decided by the Tribunal on 25.1.2016. The perusal of order on Misc. Application states that application is allowed, subject to payment of cost of Rs.1500/- payable to the respondent-bank on or before 15.2.2016 and after the payment of cost the appeal be registered after due scrutiny. The said order nowhere shows any consideration of the interim order or continuation of the interim order which was directed in the order dated 24.2.2014.

7. In the above said background, SA No.33/16 was registered before the DRT. After the registration of appeal, there was no application filed by the petitioner either for continuation of the interim relief nor any separate application for grant of interim relief. As such, SA No.33/2016 was independently registered to the file of the DRT, Nagpur.

8. It is seen from the Roznama of SA No.33/2016 that after registration of the application, the present petitioner was absent on

various dates before the Tribunal. So also he has not taken steps to serve the respondents for a considerable period. Therefore, the learned DRT by its order dated 24.11.2017 by recording the fact that though the time was extended for issuance of notices on respondent nos.1 to 5, the petitioner failed to take necessary steps. It is also recorded that in spite of the conditional order, the petitioner was not showing interest in taking notices to serve the respondents. Therefore, the proceedings were dismissed for want of prosecution.

9. The submission of the petitioner is that on the same day request was made to restore the SA No.33/2016, however, the Tribunal was not inclined to restore and, therefore, on same day, application for setting aside dismissal order was moved by the petitioner. The same was registered as Misc. Application No.837/2017. The learned DRT, Nagpur on 4.11.2019 restored SA No.33/2016 and same is now pending for the final disposal before the DRT.

10. In the background of above said factual position, the submission of the petitioner is that as the order of status-quo was granted by the learned DRT by order dated 24.2.2014 in Misc. Application No.15/2014 has been revived automatically and, therefore, the respondents should not have confirmed the sale certificate in the matter and doing that on behalf of the respondents in the matter, amounts to disobedience of the order of interim relief which was granted during pendency of delay condonation application.

11. Accordingly the legal notice was issued to the Bank and Sub-Registrar, Darwha on 2.1.2020 stating that by virtue of the judgment of the Hon'ble Supreme Court of India, after restoration of the proceeding, the interim order of status-quo was revived automatically and, therefore, requested not to register any document/deed or sale certificate in respect of the property in question before the DRT. According to the petitioner, though legal notice was served Respondents illegally executed fresh sale certificate on 31.12.2020 and on 5.3.2021.

12. After considering the chronological events in the matter, it is apparent on the face of record that there was a delay on the part of the petitioner to approach before the DRT to file SA No.33/2016. Therefore, the petitioner has initially filed Misc. Application No.15/2014 for condonation of delay. Along with the said application, Interim Application No.148/2014 was filed for grant of stay. The learned DRT, by the order dated 24.2.2014, granted status-quo till the hearing of Interim Application No.148/2014.

However, nothing is placed on the record to show that when the Interim Application No.148/2014 was finally decided by the Tribunal. On the contrary, the respondent no.1 has placed on record the copy of order passed on Misc. Application No.15/2014, decided on 25.1.2016. While deciding the said application, there is no reference about the continuation of the interim relief nor it is recorded in the operative part of the order. In any case, as the interim application was filed in Misc. Application No.15/2014, once the said Misc. Application was disposed of, according to me, the

effect and operation of the interim order passed by DRT on 24.2.2014 came to an end along with the same application.

13. According to me, the order could have been said continued if the fresh application would have been filed by the petitioner after registration of the appeal stating that there is a need to continue the interim order. However, the record demonstrates that no fresh interim application was ever filed after the registration of SA No.33/2016 before the DRT. So also, it is pertinent to note that the learned DRT was pleased to dismiss the SA No. 33/2016 by ordered dated 24.11.2017 as the petitioner failed to take necessary steps in the matter. In other words, the petitioner was not diligent to prosecute his cause before the Tribunal and, therefore, the appeal was rejected.

14. It is pertinent to note that the appeal was restored by the order of the Tribunal on 4.11.2019. As such, almost for a period of two years, the status of the appeal was as 'dismissed'. The legal notice was issued after restoration of the appeal which was duly replied by the respondents. So also the fresh sale certificate was registered by the Sub-Registrar on 31.12.2020. Therefore, at least, it is expected from the petitioner that after restoration of the appeal to get clarification from the learned DRT about the continuation of the status-quo, or at least to move appropriate application for grant of interim relief, but nothing is shown to have been filed till the fresh certificate registered by the respondent no.5-Sub-Registrar.

15. In the light of above said factual position, I am of the clear opinion that the proceeding of a contempt petition cannot be used for the execution of the decree or implementation of an order for which alternative remedy in law is provided for. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. The provisions of Contempt of Courts Act is for the purpose of securing the feeling of confidence of the people in general for true and proper administration of justice. The power to punish for contempt of court is a special power vested under the Constitution in the courts of record and also under the statute. The power is special and needs to be exercised with care and caution. According to settled principles of law, it should be used sparingly on being satisfied regarding the true effect of contemptuous conduct. In this regard, it will be useful to refer the judgment of the Hon'ble Supreme Court of India in the case of ***Jhaleswar Prasad Paul and another .vs. Tarak Nath Ganguly and others, reported in (2002) 5 SCC 352***, wherein the Hon'ble Supreme Court has observed in para 11 as under :

11. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. Since the respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen and the democratic fabric of society will suffer if respect for the judiciary is undermined. [The Contempt of Courts Act, 1971](#) has been introduced under the statute for the purpose of securing the feeling of confidence of the people in general for true and proper administration of justice in the country. The power to punish for contempt of courts is a special power vested under the Constitution in the courts of record and also under the statute. The power is special and needs to be exercised with care and caution. It should be used sparingly by the courts on being satisfied regarding the

true effect of contemptuous conduct. It is to be kept in mind that the court exercising the jurisdiction to punish for contempt does not function as an original or appellate court for determination of the disputes between the parties. The contempt jurisdiction should be confined to the question whether there has been any deliberate disobedience of the order of the court and if the conduct of the party who is alleged to have committed such disobedience is contumacious. The court exercising contempt jurisdiction is not entitled to enter into questions which have not been dealt with and decided in the judgment or order, violation of which is alleged by the applicant. The court has to consider the direction issued in the judgment or order and not to consider the question as to what the judgment or order should have contained. At the cost of repetition, be it stated here that the court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party, which alleged to have committed deliberate default in complying with the directions in the judgment or order. If the judgment or order does not contain any specific direction regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the court which disposed of the matter for clarification of the order instead of the court exercising contempt jurisdiction taking upon itself the power to decide the original proceeding in a manner not dealt with by the court passing the judgment or order. If this limitation is borne in mind then criticisms which are sometimes leveled against the courts exercising contempt of court jurisdiction "that it has exceeded its powers in granting substantive relief and issuing a direction regarding the same without proper adjudication of the dispute" in its entirety can be avoided. This will also avoid multiplicity of proceedings because the party which is prejudicially affected by the judgment or order passed in the contempt proceeding and granting relief and issuing fresh directions is likely to challenge that order

and that may give rise to another round of litigation arising from a proceeding which is intended to maintain the majesty and image of courts”.

16. So also in the case of ***Kanwar Singh Saini .vs. High Court of Delhi, reported in (2012) 4 SCC 307***, Hon’ble Supreme Court has observed in para 38 as under :

38. The contempt proceedings being quasi-criminal in nature, the standard of proof required is in the same manner as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights which are provided in the criminal jurisprudence, including the benefit of doubt. There must be a clear-cut case of obstruction of administration of justice by a party intentionally to bring the matter within the ambit of the said provision. The case should not rest only on surmises and conjectures. In Debabrata Bandhopadhyaya v. State of W.B., this Court observed as under: (AIR p.193, para 9)

"9. A question whether there is contempt of court or not is a serious one. The court is both the accuser as well as the judge of the accusation. It behoves the court to act with as great circumspection as possible making all allowances for errors of judgment and difficulties arising from inveterate practices in courts and tribunals. It is only when a clear case of contumacious conduct not explainable otherwise, arises that the contemnor must be punished. Punishment under the law of contempt is called for when the lapse is deliberate and in disregard of one's duty and in defiance of authority. To take action in an unclear case is to make the law of contempt do duty for other measures and is not to be encouraged."

(emphasis added)

17. The learned counsel for the respondents has rightly relied upon the judgment of this court in the case of ***Shantibai w/o Vithal Jadhav .vs. Vitthal Ramchandra Jadhav, reported in 2011 (4) Mh.L.J. 196***, wherein this court has held that if any application for stay was pending during the pendency of condonation of delay and after condonation of delay, the appeal was registered, then the interim order will not operate automatically unless there is a specific application moved by the party to continue the same. In this regard the specific observations are made by the coordinate bench of this court in para 8 as under :

8. *I have perused the orders passed which are referred to above, I am in complete agreement with the submissions advanced by learned Counsel Mr. Salvi. Learned 3rd Joint Civil Judge, Senior Division, Satara failed to appreciate that the order passed during the pendency of delay condonation application would not operate in appeal proceedings. He failed to appreciate that it was necessary for the respondent to file separate interim application in appeal proceedings ordered to be registered to obtain stay of decree dated 20th September, 2004. Learned 3rd Joint Civil Judge, Senior Division, Satara appears to have been totally confused and failed to appreciate the distinction between the events which take place during the pendency of Application for condonation of delay in final proceedings and events which take place or which may take place after such delay is condoned. The view taken by the learned 3rd Joint Civil Judge, Senior Division, Satara while passing the impugned orders is wrong and the impugned orders are required to be set aside. The petitioner has suffered injustice on account of these two orders. In the normal course, without there being any stay after order dated 23rd August, 2006 the petitioner was entitled to execute the decree. On account of two aforesaid orders the petitioner could not execute the decree and recover the maintenance, which she was otherwise entitled to get pursuant to judgment and decree dated 20th September, 2004.”*

18. In the present case, I am satisfied that there is no wilful and intentional disobedience on the part of the respondents. The entire case of the petitioner is on the misconception of facts and law. Prima facie, there was no order of status-quo was operating once the Misc. Application for condonation of delay was disposed of by the Tribunal by its order dated 25.1.2016. Coupled with the facts that SA No.33/2016 was also dismissed for want of prosecution on 24.11.2017 and same was restored on 4.11.2019. At the time of restoration also there is nowhere mentioned that any interim order was operating at the time of dismissal and same was restored. Rather no application was filed after the registration of SA No.33/2016.

19. In the background of above said factual position, I have no hesitation to hold that, present petition is devoid of merits and filed with an ulterior motive. Hence, I find no merit in the present petition and accordingly the Contempt Petition stands **dismissed**.

(PRAVIN S. PATIL, J.)