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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 13.01.2025+ **LPA 23/2025 & CM No.1630/2025**

SONU BHATI & ANR

..... Appellants

Through: Mr. M.R. Shamshad, Sr. Advocate
with Mr Mohd. Zaid, Mr Arijit
Sarkar and Mr Mohd. Waseem
Akram, Advocates

Versus

ARCHANA JAIN & ORS.

..... Respondents

Through: Mr Rohit Sharma with Mr Atul
Agarwal and Mr Mayank Sethi,
Advocates for R1.
Mr Vikrant N. Goyal, Advocate for
UOI.

CORAM:**HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE GIRISH KATHPALIA****VIBHU BAKHRU, ACJ. (Oral)**

1. The appellants have filed the present appeal impugning an order dated 16.12.2024 (hereafter *the impugned order*) passed by the learned Single Judge in Cont.Cas(C) No.1415/2023 captioned ***Archana Jain v. Rajinder Kumar Jain & Ors.*** whereby the learned Single Judge had found that respondent no.2 (arrayed as respondent no.1 in the contempt petition) had executed the sale deeds in respect of the property bearing No. WB-57 and WB-57A, Ganesh Nagar, Shakarpur, Delhi-110092 (hereafter *the suit property*), or part thereof, in willful defiance of the judicial orders. Accordingly, the learned Single Judge declared the sale



deeds executed in favour of the appellants as *void ab initio*. It is material to note that the impugned order was passed at an interim stage and the learned Single Judge expressly clarified that the submissions regarding sale consideration paid by the appellants (respondents no.4 and 5 in the contempt petition) would be examined on the next date of hearing.

2. Respondent no.1 (Ms Archana Jain) had filed the aforementioned contempt petition under Section 12 of the Contempt of Courts Act, 1971 (hereafter *the CC Act*) for willful disobedience of the orders dated 02.11.2015 and 29.03.2016 passed by this court in RFA No.748/2015 whereby this court had directed the parties to the said appeal, which included respondent nos. 2 and 3, to maintain *status quo* as regards to the possession and title of the suit property.

3. The said appeal [RFA No.748/2015] was filed by respondent no.1's mother Late Smt. Nirmal Kumari Jain impugning an order dated 29.05.2015 passed by the court of the learned Additional District Judge in Civil Suit No.240/14/05. Late Smt. Nirmal Kumari Jain had filed the said suit seeking partition and other reliefs in regard to the suit property against Rajinder Kumar Jain (respondent no.2), his wife Smt. Madhvi Jain (respondent no.3) and their son Rohan Jain (respondent no.4). This court issued a notice in the said appeal [RFA No.748/2015] on 02.11.2015 and directed the parties to maintain *status quo* with regard to possession and title of the suit property till the next date of hearing. The appeal was admitted on 29.03.2016 and ad interim order of *status quo* was made absolute. The said appeal is pending and is listed in the



category of “Regular Matters”.

4. Respondent no.1 had alleged that on 05.08.2016, respondent nos.2 and 3 had broken the locks of the suit property and taken over the physical possession of the same. A contempt petition [being Cont. Cas (C) No.1138/2016] was filed by Smt. Nirmal Kumari Jain, since deceased, against respondents no.2 and 3. The said contempt petition is pending. Respondent no.1 alleged that on 12.02.2019, respondent no.2 in connivance with respondent no.3 sold a portion of the suit property in favour of the appellants.

5. The appellants claim that they are the owners and in possession of property bearing No. WB-57A, Ganesh Nagar, Shakarpur, Delhi-110092 which they claim to have purchased by way of registered sale deeds dated 05.02.2019 and 09.08.2019. The said sale deeds stand cancelled by the impugned order.

6. The appellants do not dispute that this court had passed an order dated 02.11.2015 in RFA 748/2015 directing the *status quo* to be maintained in regard to the title and possession of the suit property and the said order was confirmed by an order dated 29.03.2016.

7. The appellants states that in the year 2019, respondent no.2 (incorrectly mentioned as respondent no.1 in the appeal) had approached the appellants for seeking financial assistance and proposed that in lieu whereof he would transfer 100 sq.yds. of the property bearing No. WB-57A, Ganesh Nagar, Shakarpur, Delhi-110092 to the appellants. It is stated that on 05.02.2019, respondent no.2 executed a



registered sale deed for 60 sq. yds. of the said property, ad-measuring 50.16 sq.mtrs., in favour of the appellants in equal proportion for a sum of ₹30,00,000/- (Rupees Thirty Lacs Only). The said sale deed was registered before the concerned Sub-Registrar and respondent no.2 confirmed that he had clear and unequivocal title of the said property. The appellants claim that they are the *bona fide* purchasers and had purchased the property in question believing the statements made by respondent no.2 to be correct.

8. Thereafter on 09.08.2019, respondent no.2 executed another sale deed for 50 sq. yds. of the property bearing No. WB-57A, Ganesh Nagar, Shakarpur, Delhi-110092 in favour of the appellants for a sum of ₹20,00,000/- (Rupees Twenty Lacs Only). The said sale deed was also registered before the concerned Sub-Registrar. The appellants claim that they had no knowledge of any dispute or litigation in respect of the property purchased by them and are *bona fide* purchasers of the same. They also claim that possession of the property sold to them was handed over to them simultaneously with the execution of the sale deeds.

9. Mr. M.R. Shamshad, the learned senior counsel appearing for the appellants submitted that while the parties may be held bound by the order directing *status quo* regarding the property, the consequence of the said order could not extend to in declaring the sale deeds executed by respondent no.2 in favour of the appellants as void. He contended that the only consequence would be that the appellants' right, title and interest in the property purchased by them would be subject to the



outcome of the pending appeal [being RFA No.748/2015]. According to him, the sale deeds in question are binding between the appellants and respondent no.2. He contended that declaring the sale deed to be void would in fact inure to the benefit of respondent no.2 who had violated the orders passed by the court. He contended that if the litigation *inter se* the respondents was resolved and the part of the suit property purchased by the appellants fell to the share of respondent no.2, the appellants could not be denied the benefit of the transaction *inter se* the appellants and respondent no.2. He also contended that respondent no.2 may be called upon to pay compensation in respect of the property alienated by him to other parties to the RFA No.748/2015 and the relief *inter se* the respondents could be moulded accordingly.

10. He submitted that the learned Single Judge had passed the impugned order relying on the decision of the Supreme Court in ***Balwantbhai Somabhai Bhandari v. Hiralal Somabhai Contractor (Deceased) rep. By Lrs. and Others***¹ without taking note of the earlier decision of the Supreme Court in ***Thomson Press (India) Ltd. v. Nanak Builders & Investors (P) Ltd.***². He submitted that in the said case, the Supreme Court had made observations to the effect that breach of injunction would not render transfer, whether by way of absolute sale or otherwise, a nullity. He submitted that the party committing the breach may incur liability to be punished for the breach committed by it but the sale *inter se* parties to the transaction would remain valid and

¹ 2023 SCC OnLine SC 1139

² (2013) 5 SCC 397



subject to the conditions that may be passed by the competent court against the vendor.

11. We have heard the learned counsel for the parties.

12. There is no cavil that respondent no.2 had executed the sale deeds in violation of an express order passed by this court to maintain *status quo* as to the possession and title of the property in question. Thus, the key question to be addressed is whether sale of immovable property in violation of the orders passed by the court, is void.

13. In our view, the said issue is no longer *res integra* and is covered by the various decision rendered by the courts including the Apex Court.

14. In ***Surjit Singh & Ors. v. Harbans Singh & Ors.***³, the Supreme Court had considered the question whether a Deed of Assignment is required to be treated as *non est* because it was in clear violation of the order passed by the trial court restraining the parties from alienating or transferring the property involved in the suit. The Supreme Court had concluded that the transaction, in violation of a restraint order, is required to be presumed to not exist at all. Thus, the Supreme Court had also set aside the order impleading the purchasers (who are similarly placed as the appellants in the present case) to the suit.

15. The question whether transfer of immovable property in contravention of an injunction order is legal or void fell for

³ (1995) 6 SCC 50



consideration of the Bombay High Court in *Keshrimal Jivji Shah & Anr. v. Bank of Maharashtra & Ors.*⁴. It is material to note that in the said case, it was contended on behalf of the petitioners that right, title and interest in immovable property does not extinguish merely because the Court had restrained alienation of the said immovable property. It was contended that whilst the parties acting in violation of the orders passed by the court may be required to be inflicted with serious penalties but the transaction itself would not be rendered void. However, this contention was rejected by the Bombay High Court. In that case, the Recovery Officer had proceeded to direct auction of the property of the debtor. However, prior to that, leasehold rights in respect of the said property were transferred in violation of an injunction order. The Recovery Officer declined to permit the purchasers to intervene in the proceedings. The appeal preferred against the order of the Recovery Officer was also rejected. The Debt Recovery Appellate Tribunal took a view to the effect that transfer of leasehold rights in violation of an injunction order passed by the court was void. The relevant extract of the said decision setting out the relevant question and the submissions advanced on behalf of the petitioners are set out below:

“3. The questions are :

(i) Is transfer of an immovable property in contravention of a prohibitory or injunction order of a court illegal or void ?

12. Being aggrieved by this order, the petitioners have

⁴ 2004 SCC OnLine Bom 368



approached this court invoking its jurisdiction under article 226 of the Constitution of India. The courts below were of the view that the sub-lease in favour of the petitioners being in contravention of the order of injunction passed by this court on March 6, 1998, is void and confers no right, title and interest in favour of the petitioners herein. Besides this, the courts below have observed that the petitioners have failed to substantiate their pleas that they are bona fide purchasers for value without notice. This conclusion arrived at by the courts below is seriously challenged on the ground that it is vitiated by errors apparent on the face of record and is wholly perverse. It is contended that the Recovery Officer and the DRT had no jurisdiction to declare the transfer in favour of the petitioners as void.

13. Shri Naphade, learned senior counsel appearing for the petitioners contended before us that the courts below erred in holding that the transfer during the pendency of the restraint/prohibitory/injunction order is void. He contended that there is no provision either in the Civil Procedure Code

or elsewhere which makes transfer of immovable property in violation of an injunction order/prohibitory order null and void. After inviting our attention to Order 39, rules 1, 2, 2(a) of the Civil Procedure Code and the Bombay Amendment, i.e., rule 11 it is contended by Shri Naphade that the law visits parties acting in violation of orders of court with serious penalties but does not render the transaction itself null and void or of no legal effect. Once the law does not make such provision, then it is not permissible for the courts below to hold that transfer in favour of the petitioners is void.

14. The next contention of Shri Naphade is that the right, title and interest in the immovable property does not come to an end merely because a restraint is placed by a court of law on its alienation or disposal. If this being the legal position, then there was no impediment in respondent No. 2 transferring the said property in favour of the petitioners. He contends that admittedly, the said property belongs to CIDCO and what is granted in favour of respondent No. 2 is a leasehold right. Such leasehold rights have been duly assigned by respondent No. 2 in favour of the petitioners with prior concurrence and transfer



of CIDCO. That being the case, it cannot by any stretch of imagination be said that respondent No. 2 had no right in law to effect the transfer. That apart, contends Shri Naphade, pendency of proceedings either before this court or the DRT was not known to the petitioners herein. They are neither parties to these proceedings nor are they aware of the injunction order dated March 6, 1998. They are bona fide purchasers for value without notice. Therefore, the transaction in their favour could not have been nullified by the courts below in the manner done in the instant case.

18. On the other hand, Shri Kulkarni, learned counsel appearing for respondent No. 1 submits that the courts below have concurrently held that the petitioners have purchased the said property from respondent No. 2 in violation of the order of injunction passed by this court on March 6, 1998.

He submits that the said transaction was wholly illegal. A transaction which is entered into either to defeat the order of a court of law or to violate it, confers no right, title or interest in favour of the transferee. The legal effect, according to Shri Kulkarni is that the sub-lease is not a transfer in the eyes of law. Once this principle is accepted, then nothing further needs to be considered in this matter. He submits that if parties are allowed to claim an advantage from a transaction which is in violation of an order of a court of law, then drastic consequences will follow. Entire respect for rule of law and administration of justice is gone, if despite prohibitory orders, immovable properties are alienated or disposed of with impunity. Such an approach is contrary to public policy. He submits that courts below have held that the petitioners have registered a sub-lease in their favour by colluding with respondent No. 2 and this finding of fact cannot be disturbed by us in our jurisdiction under article 226 of the Constitution of India.”

16. The Bombay High Court answered the question posed in the negative. The relevant extract of the said decision is set out below:



“23. To enable us to answer question No. 1, it is necessary to refer to the decision of the Supreme Court in the case of Surjit Singh v. Harbans Singh [1995] 6 SCC 50 to which our attention has been invited by Shri Kulkarni, learned counsel for respondent No. 1. In this decision, the Supreme Court has observed thus (page 52) :

“As said before, the assignment is by means of a registered deed. The assignment had taken place after the passing of the preliminary decree in which Pritam Singh has been allotted 1/3rd share. His right to property to that extent stood established. A decree relating to immovable property worth more than hundred rupees, if being assigned, was required to be registered. That has instantly been done. It is per se property, for it relates to the immovable property involved in the suit. It clearly and squarely fell within the ambit of the restraint order. In sum, it did not make any appreciable difference whether property per se had been alienated or a decree pertaining to that property. In defiance of the restraint order, the alienation/assignment was made. If we were to let it go as such, it would defeat the ends of justice and the prevalent public policy. When the court intends a particular state of affairs to exist while it is in seisin of a lis, that state of affairs is not only required to be maintained, but it is presumed to exist till the court orders otherwise. The court, in these circumstances, has the duty, as also the right, to treat the alienation/assignment as having not taken place at all for its purposes. Once that is so, Pritam Singh and his assignees, respondents herein, cannot claim to be impleaded as parties on the basis of assignment. Therefore, the assignees-respondents could not have been impleaded by the trial court as parties to the suit, in disobedience of its orders. The principles of lis



pendens are altogether on a different footing. We do not propose to examine their involvement presently. All what is emphasised is that the assignees in the present facts and circumstances had no cause to be impleaded as parties to the suit. On that basis, there was no cause for going into the question of interpretation of paragraphs 13 and 14 of the settlement deed. The path treaded by the courts below was, in our view, out of their bounds. Unhesitatingly, we upset all the three orders of the courts below and reject the application of the assignees for impleadment under Order 22, rule 10 of the Civil Procedure Code.”

24. We cannot be unmindful and ignorant of the importance of this aspect, which has been repeatedly emphasised by the Supreme Court. We would be failing in our duty if we do not abide by the ratio laid down in the aforesaid decisions. That apart, in the case of *Ramchandra Ganpat Shinde v. State of Maharashtra*, AIR 1994 SC 1673 ; [1995] 82 Comp Cas 276, the Supreme Court in paras. 12 and 13 has observed as under (page 285) :

“Mr. Justice Arthur T. Vanderbilt in his *The Change of Law Reforms 1955* at pages 4 and 5, stated that:

‘... it is the courts and not in the Legislature that our citizens primarily feel the keen, the cutting edge of the law. If they have respect for the work of their courts, their respect for law will survive the short comings of every other branch of the Government ; but if they lost their respect for the work of the courts, their respect for the law and order will vanish with it to the great detriment of society.’

Respect for law is one of the cardinal principles for an effective operation of the Constitution, law and the popular Government. The faith of the people is the



source and succour to invigorate justice intertwined with the efficacy of law. The principle of justice is ingrained in our conscience and though ours is a nascent democracy which has now taken deep roots in our ethos of adjudication—be it judicial, quasi-judicial or administrative as hallmark, the faith of the people in the efficacy of judicial process would be disillusioned, if the parties are permitted to abuse its process and allowed to go scot free. It is but the primary duty and highest responsibility of the court to correct such orders at the earliest and restore the confidence of the litigant public, in the purity of fountain of justice ; remove stains on the efficacy of judicial adjudication and respect for rule of law, lest people would lose faith in the courts and take recourse to extra-constitutional remedies which is a death-knell to the rule of law.”

25. In the case of *Satyabrata Biswas v. Kalyan Kumar Kisku*, AIR 1994 SC 1837, while outlining the importance of rule of law, administration of justice and the role of courts, the Supreme Court has observed (page 1843) :

“Apart from the fact whether A. K. Ghosh had a legal authority to sub-lease or not it was not open to him to grant a sub-lease in violation of the order. It is no use contending as Mr. Chidambaram, learned counsel for the respondents does, that there was a bar to such a sub-lease under the terms of the status quo order. It has the effect of violating the preservation of status of the property. This will all the more be so when this was done without the leave of the court to disturb the state of things as they then stood. It would amount to violation of the order. The principle contained in the maxim : ‘actus curiae neminem gravabit’ has no application at all to the facts of this case when in violation of status quo order a sub-tenancy has been



created. Equally, the contention that even a trespasser cannot be evicted without recourse to law is without merit, because the state of affairs in relation to property as on September 15, 1988, is what the court is concerned with. Such an order cannot be circumvented by parties with impunity and expect the court to confer its blessings. It does not matter that to the contempt proceedings Somani Builders was not a party. It cannot gain an advantage in derogation of the rights of the parties, who were litigating originally. If the right of subtenancy is recognised, how is status quo as of September 15, 1988, maintained ? Hence, the grant of sub-lease is contrary to the order of status quo. Any act done on the teeth of the order of status quo is clearly illegal. All actions including the grant of sub-lease are clearly illegal.”

26. In our view, therefore, if the facts in the present case are appreciated in the light of the decisions of the Supreme Court (supra), it is clear that during the pendency of the order of injunction issued by this court on March 6, 1998, respondent No. 2 has created a sub-lease in favour of the petitioners herein. It is of considerable significance that respondents Nos. 2 to 4 did not appear either to oppose the O.A. or during the proceedings, initiated by the petitioners herein. Their silence on the material aspect of violation of injunction order is eloquent enough. We cannot hold that the conclusion of the courts below to the effect that power to transfer the said property was subject to the injunction order issued by this court, is in any way vitiated by error of law or is in any way perverse. In the light of the decision of the Supreme Court, the transfer was clearly illegal, if not void.

27. We cannot accept Shri Naphade's contention that the observations of the Supreme Court in the case of Surjit Singh v.



Harbans Singh [1995] 6 SCC 50 should be read as restricted to proceedings under Order 22, rule 10 of the Civil Procedure Code and the same cannot be extended to defiance of injunction order issued under Order 39, rule 1 of the Civil Procedure Code. Once the issue is placed on the pedestal of public policy and the very faith of litigants in rule of law and administration of justice, then it is not possible to make the distinction or bifurcation suggested by Shri Naphade. It would mean that consequences of nullifying such transaction not being provided by the statute, it would not lose its legal efficacy even if it is in utter disregard or in violation of or breach of a prohibitory order or order of injunction issued by a court of law. It would mean that parties can breach and violate court orders openly and with impunity and neither they nor the beneficiaries suffer any consequences. It is time that we recognise the principle that transfer of immovable property in violation of an order of injunction or prohibition issued by court of law, confers no right, title or interest in the transferee, as it is no transfer at all. The transferee cannot be allowed to reap advantage or benefit from such transfer merely because he is not a party to the proceedings in which the order of injunction or other prohibitory direction or restraint came to be issued. It is enough that the transferor is a party and the order was in force. These two conditions being satisfied, the transfer must not be upheld. If this course is not adopted then the tendency to flout orders of courts which is increasing day-by-day can never be curbed. The court exercises its powers on the foundation of respect and regard for its authority by the litigating public. People would lose faith and respect completely if the court does not curb and prevent this tendency. The note of caution of the Supreme Court must be consistently at the back of everybody's mind. Therefore, Shri Naphade is not right in the distinction which he is trying to make.

28. Equally untenable is the contention of Shri Naphade that an order of injunction will bind only the transferor in this case. It



is his submission that the said order does not bind the world at large. He submits that ownership rights are neither taken away nor restricted in any manner by orders of injunction or other preventive directions. He submits that the transfer in favour of his client was thus neither invalid nor illegal, leave alone null and void. For the reasons already recorded above, we find it difficult to accept this contention of Shri Naphade. The decision of the Supreme Court in the case of Krishan Kumar Narula v. State of Jammu and Kashmir, AIR 1967 SC 1368 has no application. There, the Supreme Court was distinguishing an order of stay from an order of injunction. The distinction was made in the context of consequences upon breach and violation of such orders. It is in that context that the Supreme Court observed that the order of stay is qua a court, whereas an order of injunction reaches and touches a party to the lis. These observations cannot be applied when it is noticed that during the pendency of an order of injunction, immovable property, which is the subject matter of restraint or injunction, is transferred. When this course is admittedly adopted, then there is no choice but to declare the transaction illegal. There is no question of then deciding the nature and effect of the order of injunction.

29. Mr. Naphade's submissions overlook the effect of an order of injunction. An order issuing interlocutory injunction is issued with a view to preserve and protect status quo during the pendency of the suit or litigation. The true effect of such an order is, therefore, preservation of status quo prevailing as on the date of issuance of the order. Any alteration in the status quo as prevailing and directed to be maintained by the court of law is not permissible except with leave or sanction of the court. It is well settled that if courts are not to honour and implement their own orders and encourage party litigants, be they public authorities, to invent methods of their own to short circuit and give a go by to the obligations and liabilities incurred by them under orders of courts, the rule of law will become a casualty in the process—a consequence to be zealously averted by all and



at any rate by the highest courts in the State. (See *Salkia Businessmen's Association v. Howrah Municipal Corporation*, AIR 2001 SC 2790, at page 2792).

30. The courts below have observed that there is no substance in the contention of the petitioners that they had no knowledge of injunction. The courts below have observed that the petitioners cannot be allowed to go scot free by trying to plead a case that they were bona fide purchasers for value without notice. According to the courts below, the petitioners have not taken any steps to verify whether the title of transferor was clear and valid. They have not pleaded anywhere as to what steps were taken by them, as a prudent transferee, to ascertain the facts about pendency of proceedings or encumbrance on the said property. Admittedly, the land belongs to CIDCO and it is the subject matter of lease in favour of respondent No. 2. On the date when respondent No. 2 entered into a lease deed with CIDCO and on the date when the lease deed was registered by it, the injunction order was in force. Yet, respondent No. 2 obtained permission from CIDCO to transfer the right, title and interest in favour of petitioner No. 2. Admittedly, respondent No. 2 was aware of the pendency of proceedings as well as the injunction order. Therefore, it cannot be said that the conclusion of the courts below is based on no material or is perverse. A prohibitory order has the effect of placing a restriction on powers of disposition and respondent No. 2 could not have legally created a sublease in favour of the petitioners. That apart, the learned chairperson of the DRAT has observed that the petitioners produced no evidence in support of their claim or objection to show that on the date when the property was attached, they had some interest in or they were possessed of the property in question. They did not tender any evidence to support the claim or objection. Therefore, it is clear that the transfer had no legal effect. In view of our conclusion that the transfer was illegal, strictly speaking it is not necessary to go into other aspects and deal with the contentions of Shri



Naphade. In the light of the aforesaid discussion, the answer to question No. 1 is that the transfer is illegal and cannot be recognised. Consequently, the transferee gets no valid title nor does he acquire any right or interest in the immovable property.

31. Mr. Naphade's reliance upon the decision of the Lahore High Court, subsequently followed, according to him, is misplaced. Considering the view of the Supreme Court in matters of this nature, it will not be possible for us to accept the pleas raised by Shri Naphade. The court cannot allow a party to get away with violation of its prohibitory orders and uphold the transactions contrary to and in violation of its directions on the specious plea that the only way in which the court can regulate such acts is to visit the guilty party with penalties. It is time that the courts reach the transaction itself and put an end to purported rights created thereby. Failing which, it will become possible for parties to retain the fruits or benefits of such acts by suffering penalties. It is well-settled that no person can take advantage of his own wrong. In the instant case, respondent No. 2 in violation of the order of this court, transferred the property by creating a sublease in favour of the petitioner. The approach suggested by Shri Naphade, if accepted, will allow respondent No. 2 to retain the benefits under the sub-lease. It will also allow the petitioners to get away easily when the courts below have found that they have not acted bona fide.”

[emphasis added]

17. In *Krishna Kumar Khemka v. Grindlays Bank P.L.C. and Ors.*⁵, the Supreme Court had held that the tenant, pursuant to the tenancy created in its favour, in violation of the orders of the Court, could not claim any right in the property. The relevant observations made by the Court in the said decision is set out below:

“16. Similarly as observed in *Arumugha Gounder case* [AIR 1975 Mad 231 : (1975) 1 MLJ 385] any such act of the receiver

⁵ (1990) 3 SCC 669



done on behalf of the court pendent lite and anyone who gets possession through such an act could only do so subject to the directions and orders of the court. If we apply the above principles to the case of Tatas the tenancy created in their favour by the receiver is in violation and contrary to the injunction order and such an act is subject to the directions and orders of the court appointing the receiver. Therefore the tenancy created in favour of the Tatas was in breach of the order of the court and consequently the Tatas cannot claim any protection under the provisions of the Act and they are liable to be evicted. In the counter-affidavit filed on their behalf, it is no doubt stated that they were inducted into possession and even sending the cheques. The case of the appellant is that cheques were never encashed. In any event as observed above, the new tenancy created in their favour contrary to the orders of the court does not create a right and is liable to be cancelled. Consequently the provisions of the Act cannot be invoked by them. The appeal is therefore dismissed as against respondent 1 Grindlays and allowed as against respondent 2 Tatas. In the circumstances of the case, parties are directed to bear their own costs.”

18. In *Smt. Savitri Devi v. Civil Judge (Senior Division), Gorakhpur & Ors.*⁶, the Allahabad High Court had taken a similar view and held that sale deeds executed in disobedience of the interim orders passed by the court were a nullity.

19. The issue involved is squarely covered by the authoritative decision of the Supreme Court in *Balwantbhai Somabhai Bhandari v. Hiralal Somabhai Contractor (Deceased) rep. By Lrs. and Others*¹. In this case, the Supreme Court had upheld the decision of the High Court in cancelling the sale deeds and restoring the *status quo ante* as prevailing on the date of the order passed by the High Court. The relevant extract of the said decision is set out below:

⁶ AIR 2003 All 321



“79. We now proceed to answer the third question formulated by us as regards the power of the contempt court to declare any contemptuous transaction *non est* or void.

80. A Three-Judge Bench of this Court in the case of *State Bank of India v. Dr. Vijay Mallya*, 2022 SCC OnLine SC 826, in clear terms said that apart from punishing the contemnor for his contumacious conduct, the majesty of law may demand that appropriate directions be issued by the Court so that any advantage secured as a result of such contumacious conduct is completely nullified. The approach may require the Court to issue directions either for reversal of the transactions in question by declaring said transactions to be void or passing appropriate directions to the concerned authorities to see that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or anyone claiming under him.

81. It would be pertinent, in this context, to refer to the decision of the Chancery Division in *Clarke v. Chadburn*, [1985] 1 All ER 211, wherein it was held that an act done in wilful disobedience of an injunction or court order is not only a contempt of court, but also an illegal and invalid act which could not, therefore, effect any change in the rights and liabilities of others. Similar view was expressed by this Court in *Satyabrata Biswas v. Kalyan Kumar Kisku*, (1994) 2 SCC 266, wherein the contempt jurisdiction was invoked by the respondents against the appellants, and during the contempt proceedings, it transpired that a sub tenancy was created while the status quo order was in operation. This Court held that creation of sub-tenancy was in violation of the *status quo* order and parties were relegated to the position as existed on the date of the status quo order. This Court, *inter alia*, observed thus:

““23. ... Such an order cannot be circumvented by parties with impunity and expect the court to confer its blessings. It does not matter that to contempt proceedings Somani Builders was not a party. It cannot gain advantage in derogation of the rights of the parties, who were litigating originally. If the right of sub-tenancy is recognised, how is status quo as of 15.9.1988 maintained? Hence, the grant of sublease



is contrary to the order of status quo. Any act done in the teeth of the order of status quo is clearly illegal. All actions including the grant of sub-lease are clearly illegal.””

(Emphasis supplied)

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85. This Court in *Delhi Development Authority v. Skipper Construction Co. (P) Ltd.*, (1996) 4 SCC 622, held that the legal consequences of what has been done in breach of or in violation of the order of stay or injunction should be undone and the parties could be put back to the same position as they stood immediately prior to such order of stay or injunction to not let the defaulting party enjoy any undue advantage. This Court while relying upon cases decided by various High Courts held as under:

“The contemner should not be allowed to enjoy or retain the fruits of his contempt

Xxx xxx xxx

18. *The above principle has been applied even in the case of violation of orders of injunction issued by civil courts. In Clarke v. Chadburn* [[1985] 1 All ER 211] Sir Robert Megarry V-C observed:

“I need not cite authority for the proposition that it is of high importance that orders of the court should be obeyed. Wilful disobedience to an order of the court is punishable as a contempt of court, and I feel no doubt that such disobedience may properly be described as being illegal. If by such disobedience the persons enjoined claim that they have validly effected some charge in the rights and liabilities of others, I cannot see why it should be said that although they are liable to penalties for contempt of court for doing what they did, nevertheless those acts were validly done. Of course, if an act is done, it is not undone merely by pointing out that it was done in breach of the law. If a meeting is held in breach of an injunction, it cannot be said that the meeting has not been held. But the



legal consequences of what has been done in breach of the law may plainly be very much affected by the illegality. It seems to me on principle that those who defy a prohibition ought not to be able to claim that the fruits of their defiance are good, and not tainted by the illegality that produced them.”

19. *To the same effect are the decisions of the Madras and Calcutta High Courts in Century Flour Mills Ltd. v. S. Suppiah [AIR 1975 Mad 270 : (1975) 2 Mad LJ 54] and Sujit Pal v. Prabir Kumar Sun [AIR 1986 Cal 220 : (1986) 90 CWN 342]. In Century Flour Mills Ltd. [AIR 1975 Mad 270 : (1975) 2 Mad LJ 54] it was held by a Full Bench of the Madras High Court that where an act is done in violation of an order of stay or injunction, it is the duty of the court, as a policy, to set the wrong right and not allow the perpetuation of the wrongdoing. The inherent power of the court, it was held, is not only available in such a case, but it is bound to exercise it to undo the wrong in the interest of justice. That was a case where a meeting was held contrary to an order of injunction. The Court refused to recognise that the holding of the meeting is a legal one. It put back the parties in the same position as they stood immediately prior to the service of the interim order.*

20. *In Sujit Pal [AIR 1986 Cal 220 : (1986) 90 CWN 342] a Division Bench of the Calcutta High Court has taken the same view. There, the defendant forcibly dispossessed the plaintiff in violation of the order of injunction and took possession of the property. The Court directed the restoration of possession to the plaintiff with the aid of police. The Court observed that no technicality can prevent the court from doing justice in exercise of its inherent powers. It held that the object of Rule 2-A of Order 39 will be fulfilled only where such mandatory direction is given for restoration of possession to the aggrieved party. This was necessary, it observed, to prevent the abuse of process of law.*



21. There is no doubt that this salutary rule has to be applied and given effect to by this Court, if necessary, by overruling any procedural or other technical objections. Article 129 is a constitutional power and when exercised in tandem with Article 142, all such objections should give way. The court must ensure full justice between the parties before it.”

(Emphasis supplied)

86. This Court in *Vidur Impex and Traders Private Limited v. Tosh Apartments Private Limited*, (2012) 8 SCC 384, while deciding on a similar factual scenario held that the sale transactions conducted in teeth of the injunction passed by the Delhi High Court did not have any legal basis. This Court held as under:

“42. ... At the cost of repetition, we consider it necessary to mention that Respondent 1 had filed suit for specific performance of agreement dated 13-9-1988 executed by Respondent 2. The appellants and Bhagwati Developers are total strangers to that agreement. They came into the picture only when Respondent 2 entered into a clandestine transaction with the appellants for sale of the suit property and executed the agreements for sale, which were followed by registered sale deeds and the appellants executed agreement for sale in favour of Bhagwati Developers. These transactions were in clear violation of the order of injunction passed by the Delhi High Court which had restrained Respondent 2 from alienating the suit property or creating third-party interest. To put it differently, the agreements for sale and the sale deeds executed by Respondent 2 in favour of the appellants did not have any legal sanctity. The status of the agreement for sale executed by the appellants in favour of Bhagwati Developers was no different. These transactions did not confer any



right upon the appellants or Bhagwati Developers. Therefore, their presence is not at all necessary for adjudication of the question whether Respondents 1 and 2 had entered into a binding agreement and whether Respondent 1 is entitled to a decree of specific performance of the said agreement....”

(Emphasis supplied)

88. Thus, although Section 52 of the Act, 1882 does not render a transfer *pendente lite* void yet the court while exercising contempt jurisdiction may be justified to pass directions either for reversal of the transactions in question by declaring the said transactions to be void or proceed to pass appropriate directions to the concerned authorities to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or anyone claiming under him.

89. The High Court declared all the sale deeds executed by the contemnors in favour of the purchasers as *non est*. The High Court ordered that the sale deeds stand cancelled and set aside. The contemnors were directed to restore the position which was prevailing at the time of the order dated 14.10.2015 passed by the High Court. In our opinion, the High Court was fully justified in declaring the sale deeds as *non est* or void.”

20. The observations made by the Supreme Court in ***Thomson Press (India) Ltd. v. Nanak Builders & Investors (P) Ltd.***² would be of little assistance to the appellants in the present case. First of all, the said decision was rendered in the context of the *pendente lite* transfers. The principal question that fell for consideration of the Supreme Court was validity of transfers during the pendency of litigation and not transfers that were executed in teeth of the orders passed by the court. In ***Balwantbhai Somabhai Bhandari v. Hiralal Somabhai Contractor***



(Deceased) rep. By Lrs. and Others¹, the Supreme Court had also noted the decision in the case of *Thomson Press (India) Ltd. v. Nanak Builders & Investors (P) Ltd.*² but had found that the High Court was justified in declaring the sale deeds that were executed in violation of its orders as “*non est* and void”.

21. The substratal principle which supports the view that such transactions are required to be treated as *non est* and void is that the court must presume the transactions that have been consummated in violation of its order as non-existent. This is the principle on the basis of which the Supreme Court had in *Surjit Singh & Ors. v. Harbans Singh & Ors.*³ rejected the plea of the assignees of a property assigned in violation of the orders to be impleaded in the proceedings. The Supreme Court had declined to recognize the said transaction as it was in violation of the orders of the court. It would be debilitating to the judicial proceedings, and the rule of law, if any sanctity is accorded to any transaction, which was interdicted by the court. The efficacy of orders passed by the courts would be seriously diluted if any transfer of property or action in defiance of the orders are recognized to accrue any rights in favour of the transferees.

22. In view of the above, we find no infirmity with the decision of the learned Single Judge in declaring the sale deeds, in question, as void. Once it is accepted that the sale deeds in question have been executed in violation of the orders passed by the court directing *status quo* to be maintained regarding title and possession of the suit property, the appellants also would have no locus to challenge any orders, which



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restore the title and possession of the property as obtaining on the date when the interim orders were passed. The sale deeds having been executed in violation of the orders of the court must be treated as non-existent. Thus, we find no ground to interfere with the impugned order declaring the same to be void.

23. The appeal is unmerited, and accordingly, dismissed. Pending application is also dismissed.

VIBHU BAKHRU, ACJ

GIRISH KATHPALIA, J

JANUARY 13, 2025
'gsr'