

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

BEFORE:

THE HON'BLE JUSTICE OM NARAYAN RAI

CO 943 OF 2026

OJESH ENCLAVE PRIVATE LIMITED

VS.

BIJAY MURMURIA

For the Petitioner	: Mr. Ratnanko Banerjee, Sr. Adv. Mr. D.N. Sharma, Sr. Adv. Mr. Nirmalya Dasgupta, Adv. Mr. Debartha Chakraborty, Adv. Mr. B. Parasramka, Adv. Ms. Ankita Sikdar, Adv.
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For the Opposite Party	: Ms. Manju Bhutaria, Sr. Adv. Mr. Parikshit Poddar, Adv.
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Last Heard on	: 11.05.2026
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Judgment on	: 11.05.2026
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OM NARAYAN RAI, J.:-

1. This application under Article 227 of the Constitution of India assails an order dated March 10, 2026 passed by the learned National Company Law Tribunal (hereafter “the NCLT”), Kolkata Bench whereby three applications for contempt being Cont. A (IBC) No. 1 (KB)/2026, Cont. A (IBC) No. 2 (KB)/2026, Cont. A (IBC) No. 4 (KB)/2026 have been dismissed by the NCLT with the observation/direction that *“There should not be any impediment on the part of the Liquidator to conclude the sale process with execution of sale certificate in favour of Successful Auction Purchaser”*.

FACTS OF THE CASE:

2. The facts which are relevant for the present purpose may be briefly recounted.
3. The petitioner has approached the NCLT by filing an application being I.A. (IBC) No. 1285/KB/2024 (hereafter “interlocutory application”) praying for certain reliefs as indicated therein while alleging *inter alia* that the liquidator i.e. the opposite party herein has interfered with the petitioner’s possession in respect of certain plots of land. By the said application, the petitioner has also challenged an e-auction notice dated June 04, 2024 published by the liquidator thereby putting on sale the assets and properties of the corporate debtor i.e. Amrit Hatcheries Private Limited.
4. On the said application an interim order was passed by the NCLT on July 03, 2024 thereby, permitting the auction to be held on the scheduled date but restraining the finalization of the sale till the matter would be heard out.
5. The sale that was initially scheduled to be held on July 04, 2024, as indicated in the e-auction notice which has been impugned in the said interlocutory application, fell through for wants of bids. Thereafter, a fresh e-auction notice was published on February 03, 2025 for sale of certain properties. Bids were received in respect of the properties mentioned in Lot 1 of the said notice. A subsequent sale notice was published on June 25, 2025 thereby putting the building and the structure of the corporate debtor’s factory on sale. A single bid was

received in respect of the said building and the structure that had been put on auction by the said notice dated June 25, 2025.

6. On March 10, 2025, letters of intent were issued to the successful bidders in respect of the auction conducted pursuant to the e-auction notices published on February 03, 2025 and June 25, 2025.
7. On December 10, 2025 i.e. after the letters of intent had been issued, the petitioner filed an application being Cont. A (IBC) No. 4 (KB)/2026 alleging violation of the order dated July 03, 2024 passed by the NCLT in the aforesaid interlocutory application.
8. The said application has been turned down by the NCLT by the order impugned dated March 10, 2026 upon issuing certain further directions as already indicated hereinabove. Hence, the present revisional application.

SUBMISSIONS OF THE PETITIONER:

9. Mr. Banerjee, learned Senior Advocate appearing for the petitioner submits that the NCLT has evidently exceeded jurisdiction in passing the order impugned inasmuch as by such order, the NCLT has effectually set aside the interim order dated July 03, 2024 that had been passed by it on the aforesaid interlocutory application. It is submitted that the NCLT had permitted e-auction to be continued but restrained finalization of sale by the order dated July 03, 2024. However, the order impugned does away with such restraint and renders the petitioner's application challenging the sale infructuous.
10. Relying on a judgment of the Hon'ble Supreme Court in the case of ***Embassy Property Developments Private Limited vs. State of***

Karnataka & Others¹, he submits that although, the order impugned could have been carried in appeal before the National Company Law Appellate Tribunal (hereafter “NCLAT”) yet, since the NCLT has exceeded jurisdiction in passing the impugned order, therefore, this Court can entertain the revisional application under Article 227 of the Constitution of India.

11. He next cites a judgment of the Hon’ble Division of this Court in the case of **Brahma Deo Mishra vs. State of West Bengal & Others²** for the proposition that while deciding an application for contempt, the Court would have no power to modify the original order.
12. He has taken the Court through the order impugned to demonstrate that the order dated July 03, 2024 had been passed on the interlocutory applications that had been filed by the petitioner as well as other applicants who were similarly circumstanced alleging illegalities on the part of the liquidator. It is submitted that an interim order passed on such interlocutory application could not have been interfered with by the NCLT while dealing with an application alleging violation of the aforesaid interim order by the opposite party.

SUBMISSIONS OF THE OPPOSITE PARTY:

13. Ms. Bhuteria, learned Senior Advocate appearing for the opposite party submits that the revisional application should not be entertained by this Court.
14. She takes this Court through the petitioner’s pleadings in paragraphs 47 to 51 of the revisional application and submits that the petitioner has

¹ (2020) 13 SCC 308

² 2018 SCC OnLine Cal 16094

approached this Court alleging that as time was too short for the petitioner to approach the NCLAT, therefore, the petitioner had no other avenue but to approach this Court by way of the present application under Article 227 of the Constitution of India.

15. It is submitted that the excuse given by the petitioner for approaching this Court by way of an application under Article 227 of the Constitution of India while bypassing the statutory appellate remedy is not at all tenable inasmuch as, appeals are being filed before the NCLAT online and the same are being entertained by the NCLAT even if the same are defective, provided urgency is satisfactorily demonstrated.
16. She relies on a judgment of the Hon'ble Supreme Court in the case of ***Ajay Kumar Bhalla & Others vs. Prakash Kumar Dixit***³ in support of her contention that if an order is passed by a Court touching upon the merits of a matter while exercising contempt jurisdiction, such order would be appealable before the Appellate Court.
17. She referred to Section 425 of the Companies Act, 2013 to demonstrate that the jurisdiction to punish for contempt of its orders that is being exercised by NCLT is akin to that exercised by this Court. She indicated that in such view of the matter, going by the ratio of ***Ajay Kumar Bhalla & Others*** (supra), appeal before the NCLAT was the only remedy available to the petitioner and not an application under Article 227 of the Constitution of India.
18. She further submits that in any case, in view of the findings returned by the NCLT while deciding the application alleging contempt of its order,

³ Civil Appeal Nos. 8129-8130 of 2024, decided on July 29, 2024

the NCLT was justified in passing the order impugned thereby holding that there was no impediment on the part of the liquidator to conclude the sale process by executing sale certificate in favour of the successful auction purchaser.

- 19.** It has been further submitted by Ms. Bhuteria, learned Senior Advocate appearing for the opposite party that after passing of the order impugned, sale certificate has been issued in favour of the successful auction purchaser on March 12, 2026 and possession has also been given to the successful auction purchaser.

REJOINDER OF THE PETITIONER:

- 20.** Mr. Banerjee, learned Senior Advocate appearing for the petitioner has taken the Court through the grounds stated in the revisional application and submitted that the order dated March 10, 2026 has been challenged on the ground of the NCLT having exceeded its jurisdiction in passing directions touching upon the merits of the interlocutory application, while hearing contempt applications.
- 21.** It is submitted that the pleadings in paragraphs 47 to 51 of the revisional application would not prevent the Court from exercising jurisdiction under Article 227 of the Constitution of India if a case for exercise of such jurisdiction is made out.

ANALYSIS & DECISION:

- 22.** Heard the learned Senior Advocates appearing for the respective parties and considered the material on record.
- 23.** The first question that is to be answered is as to whether this Court can entertain the present revisional application in the facts of the present

case when an appellate remedy is available to the petitioner before NCLAT. It is now well settled that an alternative remedy is not a complete bar on exercise of plenary constitutional powers by this Court under Article 226 and 227 of the Constitution of India provided the grounds for exercise thereof are satisfied.

24. The judgment of the Hon'ble Supreme Court in ***Embassy Property Developments Private Limited*** (supra) is highly instructive in such context. In the said case, the Hon'ble Supreme Court had held that the Hon'ble High Court of Karnataka was justified in entertaining a writ petition in a case where the NCLT had chosen to exercise a jurisdiction not vested in law.
25. It is also well settled that availability of statutory remedy is not a complete bar and an application under Article 227 of the Constitution can be entertained despite availability of such remedy in cases where there is an error apparent on the face of record that has resulted in grave injustice or where a tribunal has either assumed jurisdiction which it does not have or has failed to exercise jurisdiction which it has or has exercised its jurisdiction in a perverse manner.
26. Viewed from such perspective, if it is found that the NCLT has exceeded its jurisdiction in issuing directions touching upon the merits of the interlocutory application or in effectually setting aside an interim order passed on such interlocutory application then this Court can certainly interfere with such an order.
27. The petitioner's assertion that the NCLT acted without jurisdiction is sufficient to invoke this Court's jurisdiction under Article 227 of the

Constitution of India, even if the primary motivation for the filing the revisional application was a perceived delay in reaching the NCLAT as indicated in paragraphs 47 to 51 of the revisional application.

- 28.** It is evident from the order dated March 10, 2026, that the same has been passed by the NCLT upon considering the three applications for contempt only and not the interlocutory application. Consequently, it cannot be doubted that while passing the said order, the NCLT was exercising contempt jurisdiction and not the substantive jurisdiction over the interlocutory application.
- 29.** It is now well-settled that the purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. While exercising such jurisdiction, the Court must confine itself to the four corners of the order in question. In such cases, the Court is only required to ascertain whether the order has been willfully and deliberately violated or not.
- 30.** In making such a determination, it is not open to the Court to touch upon the merits of the matter, much less to make observations that amount to setting aside the very interim order of which contempt is alleged.
- 31.** In such context, the following observations of the Hon'ble Supreme Court in in the case of **Jhareswar Prasad Paul & Another vs. Tarak Nath Ganguly & Others**⁴ may be noted:-

“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

⁴ (2002) 5 SCC 352

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 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. 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 is 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 levelled 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."

(Emphasis supplied)

32. The following observations of the Hon'ble Supreme Court in the case of **Special Deputy Collector (LA) vs. N. Vasudeva Rao & Others**⁵ also deserve notice in the present context:-

"12. In Lalith Mathur v. L. Maheswara Rao [(2000) 10 SCC 285] it was inter alia held as follows: (SCC p. 286, para 3)

"3. The above will show that the High Court has directed the State Government to absorb the respondent against a suitable post either in a government department or in any public sector undertaking. This order, in our opinion, is wholly without jurisdiction and could not have been made in proceedings under the Contempt of Courts Act or under Article 215 of the Constitution."

(Emphasis supplied)

33. Similarly in **Sudhir Vasudeva, Chairman & Managing Director, Oil & Natural Gas Corporation Limited & Others vs. M. George Ravishekar & Others**⁶ the Hon'ble Supreme Court observed as follows:-

"19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same. Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been

⁵ (2007) 14 SCC 165

⁶ (2014) 3 SCC 373

already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, Jhareswar Prasad Paul v. Tarak Nath Ganguly [(2002) 5 SCC 352 : 2002 SCC (L&S) 703] , V.M. Manohar Prasad v. N. Ratnam Raju [(2004) 13 SCC 610 : 2006 SCC (L&S) 907] , Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami [(2008) 5 SCC 339] and Union of India v. Subedar Devassy PV [(2006) 1 SCC 613].”

(Emphasis supplied)

- 34.** The Hon’ble Division Bench of this Court has echoed the same observations in the case **Brahma Deo Mishra** (supra):-

“8. Furthermore, if the impugned order is to be read as an order passed in contempt jurisdiction, we are of the view that the Learned Trial Judge erred in law in modifying a mandatory order passed in the writ jurisdiction subsequently in the contempt jurisdiction. In the contempt jurisdiction, either the power of the writ Court is to hold the contemnors or reject contempt petition. Power of modification of an order passed in contempt, which is sought, is not available to the Trial Judge.”

- 35.** In such view of the matter, the direction contained in paragraph 12 of the order impugned, is clearly in excess of the contempt jurisdiction that the NCLT was exercising.

- 36.** In so far as the judgment of the Hon’ble Supreme Court in the case of **Ajay Kumar Bhalla & Others** (supra) is concerned, the same sums up the principles as regards the avenue of appeal against orders passed in exercise of the contempt jurisdiction by the Court. The Hon’ble Supreme Court has in the said judgment clarified that when the Court exercising contempt jurisdiction passes an order touching upon the merits of the matter then an intra-court appeal (if such appeal is provided for) would be maintainable.

37. In the case at hand, it cannot be contested that the order impugned is appealable, insofar as the same touches upon the merits of the interlocutory application. However, since the directions in paragraph 12 of the impugned order have been issued while the NCLT was dealing with a contempt matter, which is a special jurisdiction, such direction has indeed been made in excess of its contempt jurisdiction as held by the Hon'ble Supreme Court in the cases of **Jharieswar Prasad Paul** (supra), **N. Vasudeva Rao** (supra), **Sudhir Vasudeva** (supra) and **Brahma Deo Mishra** (supra).
38. Since the direction contained in paragraph 12 of the order dated March 10, 2026 passed by the NCLT has been found to be without jurisdiction, for the reasons indicated hereinabove, the said portion of the order (i.e. direction contained in paragraph 12 thereof) is set aside.
39. However, since the interlocutory application challenging the liquidator's actions is pending before the NCLT, therefore, notwithstanding the setting aside of the direction contained in paragraph 12 of the order dated March 10, 2026 passed by the NCLT, this Court is not inclined to direct *status quo ante* in the facts of the present case where the auction purchaser, who is a third party to the proceeding, has been issued sale certificate and given possession in terms of the directions contained in paragraph 12 of the impugned order, which has now been set aside.
40. Keeping in mind the doctrine of ***actus curiae neminem gravabit*** (which provides that an act of Court would prejudice none and which is applicable even to cases where the Court would not have taken the relevant decision if it was correctly apprised of the facts and the law), this

Court observes that since the petitioner's application assailing the actions of the liquidator being I.A. (IBC) No. 1285/KB/2024 is pending before the NCLT, therefore, the issuance of sale certificate and all subsequent actions taken pursuant to the order impugned shall abide by the result of the said interim application pending before the NCLT.

- 41.** It is clarified that the NCLT shall decide the aforesaid interlocutory application on its own merits without being influenced by any observation made in the order dated March 10, 2026, touching upon the merits of the pending interlocutory application and it will be open to the NCLT to reach any conclusion, that can be appropriately reached in accordance with law, based on the merits of the application and the facts of the case, including any conclusion previously reached in the impugned order.
- 42.** It is further clarified that this Court has not expressed any opinion on the merits of the matter since the portion of the impugned order that has been set aside by this order has been so done only on the ground of NCLT having exceeded jurisdiction.
- 43.** With the aforesaid observations, C.O. 943 of 2026 stands disposed of. There shall be no order as to costs.
- 44.** Urgent certified website copy of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Om Narayan Rai, J.)