

CC/45/2018
IN ACO/125/2013
APO/210/2013
IA No.GA/2/2023
GA/3/2025

IN THE HIGH COURT AT CALCUTTA
Special Civil Jurisdiction (Contempt)
ORIGINAL SIDE

MAHESH KUMAR KEJRIWAL AND
ANR.

-VERSUS-

SHREE HANUMAN COTTON MILLS
LIMITED AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA DUTT (PAUL)

Date : 8th January, 2026.

Appearance:

Mr. Jishnu Saha, Sr. Adv.

Mr. Aniruddha Mitra, Sr. Adv.

Mr. Debduddh Mukherjee, Adv.

Mr. Ishaan Saha, Adv.

Mr. Kaushik Banerjee, Adv.

Ms. Rashmita Sen, Adv.

...for the petitioner.

Mr. Jishnu Chowdhury, Sr. Adv.

Mr. Subhasish Sengupta, Adv.

Mr. Andolan Sarkar, Adv.

Mr. Anurag Bagaria, Adv.

...for the respondent/ applicant in GA/2/2023.

The Court: The contempt application has been filed alleging violation of the orders dated September 11, 2013 and December 2, 2013 passed in APO/210/2013.

The relevant extract of the order dated 11th September, 2013 is as follows:

“At this stage, it is pointed out that the appellant and the said respondent no.5 are further contemplating to make construction

over the land of the company. This Court finds that the appellant and the respondent no.5 cannot continue with the construction work as by that time the appeal is disposed of, the position might become irreversible. This Court, therefore, restrained the appellant and the said respondent no.5 from making “any further construction” over the land belonging to the Hanuman Cotton Mills Limited in any manner whatsoever till the disposal of this application.

To obviate any future application this Court feels that it would be appropriate to appoint a Special Officer to make an inspection and report to this Court as to the exact nature of the construction already done over the land of said company.”

The said order also records as follows:

“This is an appeal under Section 10F of the Companies Act, 1956 against an order dated 14th May, 2013 passed by the Company Law Board..... The Company Law Board passed an order of status quo in respect of the assets of the company which continued until further order.

** * **

** * **

** * **

It appears from the annexure to the application that the undertaking was recorded by the Company Law Board to the effect that the said Welcast would remove the construction undertaken or to be undertaken if done on the teeth of the order of status quo.

The Company Law Board while disposing of the application finally held that the aforesaid constructions are made in violation of the said order of status quo dated 13th July, 2009 and directed demolition and/or removal thereof.”

The order of which violation is alleged is thus regarding **“further construction over the land”** as on 11th September, 2013. Thus, in the present contempt application it is to be ascertained as to whether any **“further construction”**

has been made by the alleged contemnor on and from 11th September, 2013, in alleged violation of the Court's order and the same is to be seen from the Special Officer's reports filed from time to time.

The defence of the alleged contemnor in their affidavit and written notes is as follows:

*“The respondents had never wilfully and deliberately violated the order of 11th September, 2013. They were under the bonafide impression that **the temporary structures/sheds which** were made in the unusual course of business had not been prohibited by the said order. Immediately after the Contempt Rule was issued i.e., when this Hon'ble Court took a prima facie view on violation of the said order, the respondents removed the new structures. In fact, the respondents removed all the new structures as was indicated in the Special Officers Report dated 10th February, 2023 even though the same extended to over 17,000 sq.ft. and more than that what the respondents had themselves initially assessed and stated in their earlier affidavit. The respondents had also tendered unconditional apology to this Hon'ble Court for the aforesaid acts and beseech this Hon'ble Court to be so kind and generous as to accept such apology.”*

Several judgments have been relied upon by both sides in support of their respective cases.

The order dated 3rd February, 2023 for demolition passed by the High Court was modified by the Hon'ble Apex Court in Civil Appeal of 2023, SLP (Civil) No.2768 of 2023 to the following extent :

“8. To balance the equities, the impugned order dated 3.2.2023 in our considered opinion, would require modification to the following extent:-

- a) The Special Officer should complete the exercise as was ordered by the High Court on 03.02.2023 and then furnish his report to the Court;*
- b) the Court would then facilitate the appellants herein to give their response to the report of the Special Officer; and*
- c) thereafter, the Court would take a decision on demolition of the structure, depending upon the report that is furnished by the Special Officer.”*

The **first report** filed by the Special Officer after the order dated 11th September, 2013 is dated **3rd October, 2013** and notes the presence of the following construction:-

“5. At the entrance of the said factory, there is a sign board which reads “WELCAST PRODUCTS PRIVATE LIMITED, PHULESWAR, ULUBERIA, HOWRAH”. On the entrance gate it is written “WELCAST”. See photograph marked D-1. The entire factory is surrounded by a high boundary wall.

6. As one enters the factory through the gate shown in D-1, on the right hand side there is a security guard room, a cycle shed and a long shed as would appear from the photograph marked D-2.

7. Just beside long shed, a portion of land has been surrounded by a three feet wall which has a temple within as would appear from the photograph marked D-3.

8. On the left hand side of the entrance gate, there is a weigh bridge which is shown in the photograph marked D-4.

9. Almost in the middle of the land there is a factory shed. On the top of such factory shed it is written “WELCAST”, as would appear from the photographs marked D-5 and D-6.

10. The Special Officer was taken behind the factory shed, photographs of the factory shed from behind are marked D-7 and D-8.

11. *There is an office room at the back of the factory land which would appear from the photograph marked D-9. There are other adjoining rooms as would appear from the photograph D-9.*

12. *Just beside the office room being D-9, there is another construction which the Special Officer has been informed by the appellants was being used as store room. Photograph of the same is marked D-10.*

13. *D-11 is a toilet on the right hand side of the entrance gate being D-1.*

14. *There are other constructions on the land. These are mostly on the left side as one enters from the entrance gate being D-1. The Special Officer has taken photographs of the same. They are serially marked as D-12, D-13, D-14 and D-15."*

The **second report** is dated 10th February, 2023, the relevant part of the report is as follows:

"Since there was no order of stay of the order dated 3rd February, 2023, the Special Officer expressed his inability to adhere to such request and proceeded to commence inspection of the subject structures. It can be found from a plain comparison of the photographs taken by the Special Officer on 4th February, 2023 with the photographs forming part of the previous report of the Special Officer that there have been constructions made subsequent to the previous visit of the Special Officer. The Special Officer has taken photographs of the newly constructed shed as well as other building materials lying at the said space.

* * *

* * *

* * *

With the assistance of the surveyor Mr. Sandip Bijoli, Uluberia Municipality and his staff, he could more or less ascertain a newly constructed portion upon comparing the same with the photographs affixed to the previous report of the Special Officer. Mr. Bijoli had

prepared a rough sketch of the newly constructed sheds along with measurements.

** * **

** * **

** * **

Dispute arose as to the extent to which such constructions needs to be demolished. According to the contemnors, the order dated 3rd February, 2023 directs the Special Officer to identify 15,000 sq. ft. of factory shed as stated and recorded in the order dated 16th December, 2022 and demolish the same. On the other hand, Mr. Mahesh Kejriwal representing the petitioners was of the view that the purport of the order was to demolish everything that was newly constructed subsequent to the order dated 11th September, 2013. The rival contentions of the parties have been duly recorded in the Minutes of the Special Officer, held at the location.

** * **

** * **

** * **

At about 3 O' clock, a letter was served by the Advocate of the respondents, informing the Special Officer that the Hon'ble Supreme Court has granted an interim suspension of the order dated 3rd February, 2023 and directed notice to be issued in the matter. The Special Officer was thus requested, after service of the said order, not to proceed with the work of inspection and demolition. A server copy of the order dated 4th February, 2023 was also served on the Special Officer."

The **third report** is dated **1st August, 2023** and the relevant part of the report is as follows:

"8. The Uluberia Municipality was notified and Mr. Sandip Bijoli, was present at the site along with one, Mr. Ashoke Kumar Sarkar, Head Estimator from Uluberia Municipality. After considering the report of the Special Officer prepared on 3rd October, 2013, the partial sketch prepared by Mr. Bijoli on the last visit of the Special

Officer on 4th February, 2023 and after measurements recorded in consultation with the Special Officer, a hand drawn sketch was prepared by Mr. Bijoli and Mr. Sarkar under the supervision of the Special Officer. A copy of the said sketch map duly signed by the Special Officer and Mr. Sarkar and Mr. Bijoli, indicating the existing structure in terms of the report of October, 2013 and the newly constructed sheds constructed after 2013, has been indicated in the said sketch. The said sketch map also shows the exact measurements of the new constructions.

A copy of the said sketch map identifying the structures constructed after 3rd October, 2013 is annexed hereto and marked with the letter "C".

The **final report** is dated **31st August, 2023**, an extract from the same is as follows:

1. By an order dated August 22, 2023 passed by His Lordship the Hon'ble Justice Harish Tandon in C.C. No. 45 of 2018; 1. A. No. G.A. 2 of 2023 (Mahesh Kumar Kejriwal & Anr. -Vs.-Shree Hanuman Cotton Mills & Ors.), the Special Officer was directed to-

"Re-visit the site and submit a report whether the alleged contemnors have been able to dismantle the structure which has been shown in the sketch map annexed to the last report submitted before this court and the extent thereof."

** * **

** * **

** * **

6. Upon entering the factory premises, the Special Officer found that portions of the factory shed, shown in the sketch map annexed to the previous report of the Special Officer dated August 1, 2023, have been dismantled.

7. Photographs of the area from where the structures have been dismantled, subsequent to the last visit of the Special Officer, have

been taken under the instructions of the my sketch map Special Officer. L Officer. ...

8. However, it was pointed out by Mr. Kaushik Banerjee, Advocate that although the factory shed and the iron columns supporting such sheds have been removed but the R.C.C. foundations are still existing. Such objection has been recorded in the minutes.

9. Upon physical measurement of the area from where the structures have been removed/dismantled, it will appear that the factory shed along with the iron columns covering an area of 135 feet x 85 feet shown in the North West corner of the sketch map annexed to the previous report has been dismantled.

10. Similarly, the factory shed covering an area of 100 feet x 54 feet shown in the West side of the sketch map annexed to the previous report has also been dismantled.

** * **

** * **

** * **

12. Mr. Bijoli and Mr. Sarkar have physically assisted the Special Officer in measurement of the area and have confirmed in the minutes held at the locale that the sheds have been removed from two areas measuring 135 feet x 85 feet and 100 feet x 54 feet.”

The violations alleged by the petitioners herein are as follows:

“41. A bare perusal and comparison between the status of the contemnor no.5 in 2013 reflected from the report and photographs taken by the Learned Special Officer, with that of the present literature of the contemnor no.5, will clearly show that the contemnors have wilfully, deliberately and contumaciously acted in violation of the orders dated September 11, 2013 and December 2, 2013 passed in A.P.O. No.210 of 2013 as under:-

- i) In spite of the orders dated September 11, 2013 and December 2, 2013, the contemnors proceeded to make further constructions at the said factory premises;

- ii) In spite of the orders dated September 11, 2013 and December 2, 2013, the contemnors have deliberately, wilfully and contumaciously carried on manufacturing business at the said premises on the basis of new constructions made by them;
- iii) In spite of the orders of September 11, 2013 and December 2, 2013, restraining the appellants and the respondent no.5 from making further construction over the land in any manner whatsoever till disposal of the application, they have wilfully, deliberately and contumaciously have violated the said orders;
- iv) In spite of the orders dated September 11, 2013 and December 2, 2013, the contemnors have proceeded to install new machines and machinery at the said premises;
- v) In spite of the orders dated September 11, 2013 and December 2, 2013, the contemnors have made constructions at the sheds and the other various parts and portions of the factory;

From the Special Officer's report it appears that:-

- i) The new construction (temporary) at the factory premises have all been removed.
- ii) In respect of the violations alleged at point (ii) of para 42 of the contempt application, there does not appear to be any violations as the order dated 11th September, 2013 does not stop the alleged contemnors from carrying on manufacturing business at the said premises.

- iii) The construction sheds (temporary) have all been removed and order of the Court has been duly complied.
- iv) In respect of point no.(iv) at para 42, again the order of which violation has been alleged does not stop the alleged contemnors from installing new machine and machinery at the said premises.
- v) The allegations at (v) of para 42 is a repetition of points at (i) and (iii).

Thus, there being no alleged violation of the order dated 11th September, 2013, **the contempt proceeding is hereby dropped.**

CC/45/2018 stands disposed of.

(SHAMPA DUTT (PAUL), J.)