



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 226 OF 2025
IN
CIVIL APPLICATION NO. 4249 OF 2018
IN
CIVIL APPLICATION NO. 1446 OF 2007
IN
SECOND APPEAL NO.141 OF 2007

Santosh s/o Punjaram Pakhre ... **Petitioner**
Age 45 years, Occu: Agri
Through G.P.A.
Govind s/o Ambadas Pakhre
Age 70 years, Occu: Police Patil/Agri.
R/o Gondegaon, Tq. & Dist. Jalna

VERSUS

1. Vinayak s/o Sampatrao Wagh
Age 58 years, Occu: Agri.
2. Babasaheb s/o Sampatrao Wagh **Respondents**
Age 53 years, Occu: Agri.
3. Manik s/o Sampatrao Wagh

Mr. V. D. Sapkal, Senior Advocate a/w Advocate Ms. Priyanka L. Kale i/by
Mr. Sandip R. Sapkal, Advocate for the Petitioner,
Mr. Govind Bhagwan Chate, Advocate for the Respondents

CORAM : Y. G. KHOBRAGADE, J.

RESERVED ON : 05.02.2026

PRONOUNCED ON : 16.02.2026

JUDGMENT:-

1. Heard at length Mr. V. D. Sapkal, the learned Senior Advocate
i/by Mr. Sandip R. Sapkal, Advocate for the petitioner and Mr. Govind B.
Chate, learned counsel for the respondents.

2. By the present petition under Sections 10 and 12 of the Contempt of Courts Act, 1971, the petitioner prays for taking action against the respondents/contemnors for their willful disobedience of the order of injunction dated 14.10.2008 passed by this Court in Civil Application No. 4249 of 2018 in Civil Application No. 1446 of 2007 in Second Appeal No. 141 of 2007 and disturbing peaceful possession of the petitioner over the properties admeasuring 2 Acres and 25 Acres situated on the western side of Gat No. 163 at village Gondegaon, Taluka and District Jalna, within the four boundaries described herein-below.

Towards East	: Remaining area of Gat No. 163
Towards West	: Gat no. 162, belonging the petitioner's family
Towards South	: Gat No. 193, belonging to Rajabhau
Towards North	: Gat No. 162 belonging to the petitioner

3. The petitioner is the original plaintiff and the Respondent Nos. 1 to 3 are original Defendants in a Regular Civil Suit No. 584 of 1995.

4. In brief facts giving rise to present petition are that, the petitioner/Plaintiff had filed a Regular Civil Suit No. 584 of 1995 before the learned Civil Judge, Senior Division, Jalna and prayed for decree of perpetual injunction restraining the Respondents/original defendant from interfering with his possession over agricultural land described herein-

above. On 30.12.2004, the learned Civil Judge, Senior Division, Jalna, passed judgment and decreed in R.C.S. No. 584 of 1995 and restrained the Respondents/ori. Defendant from disturbing possession of the present Petition/Plaintiffs.

5. The Respondents/ori. Defendants filed Regular Civil Appeal No. 11 of 2005 before the learned First Appellate Court Jalna. On 05.10.2006, the learned First Appellate Court quashed and set aside Judgment and Decree dated 30.12.2004 passed in R.C. S. No. 584 of 1995 and dismissed the suit of the petitioner/plaintiff. The said judgment is challenged by the petitioner/plaintiff in Second Appeal No. 141 of 2007. He also filed Civil Application No. 1466 of 2007 and prayed for grant of injunction in terms of prayer clause (C) of the application. On 14.10.2008, this Court (Coram: R. M. Borde, J.) passed an interim order in terms of prayer clause (C) of Civil Application No. 1466 of 2007. However, on 28.05.2021, the Respondents/Ori. Defendants entered into suit land and tried to disturb his peaceful possession and disobeyed the order dated 14.10.2008 passed by this Court in Civil Application No. 1466 of 2007, hence, prayed for action against the Contempt of Court Act, 1971.

6. Mr. V. D. Sapkal, the learned Senior Counsel appearing for the petitioner canvassed that, during subsistence and operation of the

injunction order in favour of the petitioner, some family members of the respondents had abducted son of the petitioner's General Power of Attorney holder on 30.11.2008 and committed his murder. Consequently, one Punjaram Karbhari Wagh was arrested by the Police on 21.04.2010 for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, as well as under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in connection with Crime No. 290 of 2008 registered with Jalna Police Station, Jalna. Upon charge is filed, it was registered as Special Case (Atrocity) No. 18 of 2010. After conclusion of the trial, 05.08.2015, the learned Special Court passed Judgment and order and awarded life sentence to the Accused Punjaram Karbhari Wagh.

7. The learned Senior Counsel appearing for the petitioner further canvassed that, the petitioner's General Power of Attorney holder is a real uncle of the petitioner and he was looking after agricultural operations and attending to the court matters on behalf of the petitioner. However, the respondents in collusion with their family members, with an intention to harass the petitioner, encroached upon the petitioner's land with willful disobedience of injunction order granted by this Court on 14.10.2008 in Civil Application No. 1466 of 2007.

8. It is further canvassed that, the Tahsildar, Jalna, had passed an order on 04.10.2012 and directed the concerned Revenue Officers for removal of obstructions created by the respondents. On 07.03.2017, the Tahsildar had directed the concerned police officials to visit the suit land on 06.04.2017 and to remove obstructions made by the respondents. Although, the Sub-Divisional Police Officer, Jalna, by its communication dated 07.04.2017 directed the Police Inspector, Jalna, to take necessary action against the respondents but no action is taken till date. Consequently, on 09.04.2017 and 10.04.2017, the petitioner submitted applications to the Collector, Jalna, the Police Inspector, Jalna, and respectively and requested for initiation of action against the family members of the respondents, but no action was taken against the family members of the respondents.

9. It is further canvassed that, the family members of the respondents are continuously obstructing the petitioner's possession and day-to-day agricultural operations. Further, the Respondents stolen cotton crop from the suit land. The respondents are issuing threats of committing murder of the petitioner. Therefore, the petitioner lodged the FIR dated 29.02.2004 and 09.12.2024.

10. It is further canvassed on behalf of the petitioner that, on 06.04.2017, the Tahsildar passed an order under section 145 of the

Criminal Procedure Code about removal of encroachment of the respondents. Being aggrieved by said order, the respondents filed Appeal No. 2017/ROR/CR/31 before the Sub Divisional Officer, Jalna, but said appeal was rejected on 29.09.2017. However, on 28.05.2021 at about 3.30 p.m., when the family members of the petitioner were cultivating the suit land, at that time, the respondents entered into the suit land and assaulted the petitioner, his family members and tried to dispossess the petitioner despite operation of injunction order dated 14.10.2008 passed in Civil Application No. 1466 of 2007 in S.A. 141 of 2007. Therefore, the petitioner reported said incident to the concerned Police Station on the basis of which FIR No. 232 of 2021 registered against the present respondents. Therefore, the acts on part of the respondents while creating obstructions and interfering with peaceful possession of the petitioner over the suit land constitute willful disobedience, amounting to contempt of this Court's order dated 14.10.2008.

11. The Respondent No. 3 Shri Manik Sampatrao Wagh filed an affidavit in reply on behalf of the respondents. The Respondents have denied about disobedience of order dated 14.10.2008 passed by this Court in Civil Application No. 1466 of 2007. However, the respondents have not denied about passing order dated 14.10.2008 in Civil Application No. 1466 of 2007. According to the respondents, they never encroached

upon the disputed land of the petitioner, nor they have disobeyed the order passed by this Court, hence, prayed for dismissal of the petition.

12. It is further contended that the respondents always obeying the orders of courts of law and they are having high regard to the court of law and tendered unconditional apology for the any disobedience of order, if any occurred on their part. It is the contention of the Respondents that, the petitioner had lodged the FIR No. 290 of 2008 but no names of their family members appeared in said FIR. So also, they are not involved in said crime.

13. The learned counsel appearing for the respondents canvassed that, in the year 2022, the petitioner had approached the Tahsildar and initiated proceedings under Section 145 of the Code of Criminal Procedure, bearing Case No. 2022/MAG/Cr.PC./145/CR against the respondents. After hearing the parties, the Tahsildar-cum-Taluka Magistrate, Jalna passed an order dated 07.06.2023 holding that, there were no encroachment by the respondents upon the disputed land. Therefore, it demonstrates that the Respondents neither disobeyed the order passed by this Court nor they encroached upon any portion of the land.

14. It is further canvassed that this Court passed the order of

injunction on 14.10.2008 in Civil Application No. 1466 of 2007, however, after a lapse of about 17 years, the petitioner instituted present contempt petition without offering any justification for the delay. The present petition is barred by limitation, hence, prayed for dismissal of the contempt petition.

15. Having regard to submissions canvassed on behalf of both the sides, I have gone through the record. It is a matter of record that the present petitioner/plaintiff had filed RCS No. 584 of 1995 and prayed for decree of perpetual injunction against the respondents/contemnor. It is not in dispute that, on 30.12.2004, learned Civil Judge, Senior Division, Jalna, passed judgment and decree in favour of the present petitioner/original plaintiff and restrained the Respondents/original defendants from interfering with the possession of the petitioner over the suit land. It is not in dispute that, as on today, the petitioner is in possession of the land.

16. It is also not in dispute that the respondents had preferred Regular Civil Appeal No. 11 of 2005 before the first appellate Court challenging the judgment and decree dated 30.12.2004 passed in RCS No. 584 of 1995. It is a matter of record that on 05.10.2006, the first appellate court allowed said appeal and suit of the petitioner/plaintiff came to be dismissed. Being aggrieved by the said judgment and decree, the petitioner/plaintiff filed Second Appeal No. 141 of 2007 before this

Court alongwith Civil Application No. 1466 of 2007 seeking injunction in terms of prayer clause (C) of the civil application, which read as under:

"(C) Pending hearing and final disposal of this application and second appeal, by issuing an order of injunction, the respondents, their agents, servants, or any one acting on their behalf may be restrained from causing interference into the peaceful possession of the applicant(original plaintiff) over the suit land, admeasuring 2 Acre 25 Ares towards western side of Gat No. 163, situated at village Gondegaon, Tq. & District Jalna, four corner of the said field is as described herein above."

17. It is a matter of record that on 14.10.2008, this Court passed an interim order in Civil Application No. 1466 of 2007 in Second Appeal No. 141 of 2007 as under:

- "(1) Heard.
- (2) Interim relief in terms of prayer clause (C).
- (3) Civil stands disposed of."

18. On face record it appears that, on 12.12.2008, the informant Govindrao Ambadas Pakhre(GPA) lodged the FIR No. 290 of 2008 with Police Station, Jalna alleging that, Atmaram Punjaram Wagh abducted his son and committed his murder. It is a matter of record that said accused Atmaram was tried in Spl. Case No. 18 of 2010 for the offences punishable under sections 302, 201 read with section 34 of the Indian Penal Code and under section 3(2) (v) of the of Schedule Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Crime No. 290 of 2008 and said accused sentenced life imprisonment.

19. On 16.01.2019, this Court (Coram: Smt. Vibha Kankanwadi, J.) passed the order in Civil Application No. 4249 of 2018 in Civil Application No. 1466 of 2007 and disposed of the application by making following observations:

"After hearing learned advocate for the applicant / appellant, it is noticed that, there is nothing on record which would show that encroachment is made by the respondents over the land admeasuring 2 A 25 R in Gut No. 163 situated at village Gondegaon Tq. And Dist. Jalna.

2. Perusal of the documents annexed would show that, only certain official communication was made by the Tahsildar, however it appears that, no attempt is made to get the alleged encroached area measured. The application is silent what is the extent of encroachment. Under such circumstance the application appears to be very vague, hence it cannot be entertained and accordingly it is disposed of."

20. On 03.07.2025, this Court (Coram S. G. Chapalgaonkar J.) passed the following order:

"1. The learned Advocate appearing for petitioner seeks time to file affidavit in support of his contentions that respondents have obstructed in his possession over the suit property.

2. Stand over to 20.08.2025."

21. In pursuance of said order, the Petitioner filed affidavit of Govind s/o Ambadas Pakhre stating therein that, 5 persons i.e. (i) Mr. Anna Devrao Wagh, (ii) Mr. Raghunath Dagdu Ambhore, (iii) Mr. Manik Sudam Wagh (iv) Mr. Nana Pralhad Ghorpade, the neighbour agriculturists witnessed the incident occurred on 28.05.2021 and they executed the affidavit. After perusal of contents of all these five affidavits, it appears that, on 28.05.2021 at about 3.30 pm., the police persons from Police Station Jalana visited for enquiry about dispute between the petitioner Mr. Pakhre and Govind Wagh. All 5 witness and police persons visited field of the petitioner. At that time they noticed that, Shri Punjaram Pakhre, the elder brother of Govind Pakhre was cultivating the land Gat No. 162 and at that time Babasaheb Sampat Wagh, Vinayak Sampat Wagh and Manik Sampat Wagh entered into field of Punjaram Pakhre and stopped agricultural operation. Thereafter the Respondents abused in filthy language and assaulted Shri Punjaram Pakhre, Govind Pakhre, his wife and son. However, statements/ affidavits of all these witnesses does not show that, the Respondents have dispossessed the petitioner from his possession over the suit land.

22. No doubt, the petitioner contended that, on 28.05.2021, when he and his family members were cultivating the suit land bearing Gat No. 162, the respondents entered in to his land and they abused,

assaulted him and his family members in presence of two police officials. Accordingly, FIR No. 232 of 2021 registered with Police Station, Jalna. Needless to say that, mere entry of the respondents into suit land on 28.05.2021 and abusement in filthy language, assault to the petitioner and his family members does not itself establish that, the respondents have willfully disobeyed the order dated 14.10.2008 passed by this Court in Civil Application No. 1466 of 2007 and disturbed possession of petitioner over the suit land.

23. It is not the contention of the petitioner that, during the subsistence of the injunction order, the respondents dispossessed him from the suit land on 28-052021 and the Respondents have taken possession of said land or in alternate the respondents are in possession of said Gat No. 162 after dispossessing the petitioner.

24. In case of *Anil Ratan Sarkar Vs. Hirat Ghosh, AIR 2002 SC 1405*, the Hon'ble Supreme Court held that, mere disobedience of an order of the court may not be sufficient to amount to civil contempt within the meaning Sec. 2 (b) of the Act, 1971. Element of willingness is indispensable requirement to bring home the charge within the meaning of the Contempt of Courts Act.

25. The petitioner alleged that, on 28.05.2001, at about 3.00 p.m.

when he and his family members were cultivating land at that time the respondents entered into suit field and they abused and assaulted them. Accordingly, he lodged the FIR No. 232 of 20021 on 29.05.2021. However, on perusal of said FIR it does not reveal that, the respondents/contemnor dispossessed the petitioner from the land in dispute. Therefore, taking into consideration the facts and circumstances as discussed above as well as law laid down in case of **Anil Ratan Sarkar**, cited *supra*, I am on view that, the Petitioner failed to demonstrate willful or intentional disobedience of order injunction order granted by this Court on part of the Respondents.

26. The petitioner alleged that, the respondents and their family members day-to-day are interfering with his peaceful possession over the suit land, stealing cotton therefrom, and threatening to commit murder of the petitioner and his family members, therefore, he lodged several complaints with the Police Station, Jalna, on various dates 13.04.2017, 15.04.2017, 03.05.2017, 11.10.2017, 29.02.2024, 07.05.2024, 11.05.2025, 07.08.2024 and 09.10.2024 but Police failed to take action against the respondents.

27. Section 20 of the Contempt of Courts Act provides limitation of one year for initiation of proceeding under the Contempt of Courts Act from the date of alleged willful disobedience of the Court's order. However, the petitioner categorically made a statement in paragraph no.

15 of the petition that, on 28.05.2021 at about 3.00 p.m., when his family members were cultivating their land, at that time, the respondents visited the suit land and abused in filthy language and assaulted. However, there is no averment that the respondents dispossessed him from said land despite operation of injunction order. Nonetheless, even if it is presumed that, on 28.05.2021, the respondents tried to dispossess the petitioner, however, as per the provisions of the Contempt of Courts Act, no action under the Contempt of Courts Act can be initiated after expiry of period of one year from the date of willful disobedience of the order of Court or commission of contempt of Court. In the case in hand, the petitioner instituted present contempt petition on 25th February, 2025 alleging that, on 28.05.2021, the Respondents entered in his field and tried to dispossess him. Therefore, it prima facie appears that, the petitioner has instituted present petition after lapse of more than four years. Therefore, the present contempt is hopelessly barred by limitation, hence, present petition is liable to be dismissed.

28. In view of the above discussion, the contempt petition is dismissed.

(Y. G. KHOBRADE, J.)