IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 36 OF 2025

IN

LAND ACQUISITION REFERENCE NO. 18 OF 1988

A H Wadia Charity Trust, Bombay **… Petitioner**

V/s.

Special Land Acquisition Officer -3
(Office of the Collector) & Ors. **… Respondents**

Mr. Chaitanya Chavan, a/w. Mr. Niel Patel, Mr. Levi Rubens, Mr. Yohaan Rubens, Ms. Tinaz Kapadia and Ms. Unnati Bane i/b. LR and Associates for the Petitioner.
Mr. Himahsu Takke - AGP for State.
Mr. Amrut Joshi a/w. Ms. Radha Bhandari & Mr. Yazad Udwadia i/b. M.V. Kini & Co. for Respondent No.2 (AAI).

CORAM : FARHAN P. DUBASH, J.

DATE : 23rd JANUARY 2026

P. C :

1. The present Contempt Petition has been filed by the Petitioners herein / Original Claimants who assert that the Contemnors / Respondents herein / Original Applicants have willfully breached and disobeyed the order dated 11th December 2024 by not depositing the enhanced compensation determined by this Court.

2. A brief chronology of the relevant dates and events that is required for adjudicating the issue which arises in the present Contempt

Petition is set out hereunder:

(i) Pursuant to the publication of Section 4 notification of the Land Acquisition Act, 1894 (**"said Act"**) that was issued in respect of lands in LAR No. 19 of 1988 and LAR No. 18 of 1988 dated 12th August 1982, possession of the lands was taken on 20th February 1986 and the Special Land Acquisition Officer **(SLAO)** passed the award under Section 11 of the said Act on 23rd September 1986.

(ii) Pursuant thereto on 17th August 1988, LAR Nos. 18 and 19 came to be filed by the Original Claimants under Section 18 of the said Act which came to be disposed of by a common judgment and order dated 11th December 2024 **(common judgment and order)** whereunder, both References were allowed, and the Claimant was awarded enhanced market value together with 30% solatium thereon and statutory interest on the enhanced market value until payment. It was further directed that the payment already made to the Claimant by the SLAO under the twin awards in the two LAR's should be adjusted from the market value awarded in the common judgment and order and the SLAO was directed to compute the balance amount and pay it to the

Original Claimants as directed therein. The Original Claimants were directed to file the calculation and computation of the aforesaid market value and statutory benefits payable to them under the common judgment and order with the SLAO and Acquiring Body within two weeks from the date of the common judgment and order and the SLAO and Acquiring Body were directed to pay the original Claimants, the balance amount in both the LAR's within a period of four weeks from the date of submission of calculation after making due adjustment of the amounts already paid to the original Claimants under the twin awards dated 23rd September 1986 in both the cases. This common judgment and order contains directions that the Petitioners contend have been breached and disobeyed by the Respondents.

(iii) In accordance with the directions contained in the common judgment and order, on 24th December 2024, the Petitioners submitted their calculation and computation of the market value of the acquired lands to the SLAO who in turn, by his letter dated 8th January 2025, requested the Petitioners to submit their Aadhar Card, PAN Card and other documents which thereafter also came to be submitted on

17th January 2025.

(iv) The timeline prescribed under the common judgment and order expired on 21st January 2025 (four weeks from 24th December 2024 when the calculation and computation was submitted by the Petitioners).

(v) Subsequent correspondence was thereafter exchanged between the parties whereunder the Petitioners called upon the Respondents to pay the enhanced compensation in accordance with the calculation and computation provided by them, pursuant to the common judgment and order.

(vi) On 24th March 2025, Appeal No. 9406 of 2025 was filed by the Acquiring Body/Respondent No.2 herein and on 28th March 2025, an Interim Application came to be preferred therein seeking condonation of delay of 66 days in filing the said Appeal and another Interim Application was also taken out therein, seeking stay on the execution of the common judgment and order. It appears that since then, though the said Appeal and the Interlocutory Applications taken out therein were listed on Board on atleast 9 occasions, the same did not reach and as a result, till date, no orders have been passed therein.

(vii) Though, the said Appeal was filed in March 2025, it came to be served on the Petitioners herein only on or about 17th September 2025 after the present Contempt Petition was served on the Respondents on 16th September 2025 and during this period also, correspondence was exchanged between the parties whereunder, the Petitioner sought compliance from the Respondents.

(viii) Ultimately, since there was no compliance forthcoming, on 15th May 2025, the present Contempt Petition has been filed for willful disobedience of the common judgment and order.

3. The short point that arises for consideration in the present Writ Petition before this Court is whether the Respondents can be stated to have disobeyed and breached the directions given by this Court in the common judgment and order which in effect, awards money to the Petitioners herein/Original Claimants, in the two LAR's in the form of enhanced compensation, solatium, interest etc.

4. Mr. Chaitanya Chavan, learned Counsel who appears on behalf of the Petitioner submits that the present case is not one in which a simple money decree has been awarded in favour of his clients. He contends that the amount awarded to his client, which has been enhanced by the common judgment and order, is one that has been awarded in lieu of acquisition of his client's property.

5. He submits that the Appeal against the common judgment and order has been belatedly filed by Respondent No.2 and till date, they have not even been successful in obtaining a stay on the execution of the common judgment and order. He therefore submits that in the facts and circumstances of the present case, there is *ex-facie*, a willful breach and disobedience of the directions contained in the common judgment and order inasmuch as the same expressly directs the Respondents to pay the amount to the Petitioners within a period of four weeks from the date of submission of calculation and computation of market value by them to the SLAO and the Acquiring Body which, was admittedly done vide letter dated 24th December 2024. He therefore submits that the present Contempt Petition is maintainable and this Court ought to entertain the same by admitting it and issuing the requisite notice to the Respondents to show cause.

6. In support, he relies on the decision of the Supreme Court in ***Bank of Baroda v. Sadruddin Hasan Daya and Anr.***[1] and in ***Maninderjit Singh Bitta v. Union of India and Ors.***[2] to contend that whilst exercising contempt jurisdiction, this Court should be primarily concerned with inquiring whether the Contemnor is guilty of intentional and willful violation of the orders of this Court even if it constitutes a civil contempt and Government departments are no exception to it and especially when timelines are prescribed, orders are required to be complied with, within the timelines so directed.

7. Per contra, Mr. Amrut Joshi, learned Counsel appears on behalf of the Respondents and submits that the present Contempt Petition is not maintainable inasmuch as, the same has been filed in respect of a money decree that has been awarded in favour of the Petitioners and no contempt can lie for failure on the part of the Respondents in depositing the said amount especially when they have already challenged the common judgment and order on merits, which challenge is still pending adjudication before the Division Bench of this Court. He therefore contends that there cannot be any willful disobedience and/or breach stated to have been committed by the Respondents.

1 (2004) 1 SCC 360
2 (2012) 1 SCC 273

8. In support, he relies on the decisions of the Supreme Court in ***R.N. Dey and Ors.v. Bhagyabati Pramanik and Ors.***[3] and in ***Ram Kishan v. Tarun Bajaj and Ors***.[4] and in ***Lifestyle Equities C.V. and Anr. Vs. Amazon Technologies Inc.***[5]

9. He therefore submits that there is no merit in the captioned Petition which ought not to be entertained by this Court.

10. I have heard the submissions made by both parties and perused the record. Upon careful perusal, it is revealed that though the common judgment and order directs payment by the Respondents to the Petitioners and certain timelines are prescribed therein for making such payment the Respondent No.2 has challenged the same and filed Appeal No. 9406 of 2025 and also taken out Interim Applications therein seeking condonation of delay and for stay which are still pending adjudication before the Division Bench of this Court. A perusal of the Roznama of this matter reveals that the said Appeal and Interlocutory Applications have been listed on several occasions (at least nine occasions) since they were filed and due to paucity of time, the same did not reach. As a result, the Respondent No.2 herein/Appellant therein has not been able to make out their case on merits, as pleaded in the said Appeal. Hence, it cannot be said that there is a deliberate and

3 (2000) 4 SCC 400
4 (2014) 16 SCC 204
5 (2025) SCC Online SC 2153

intentional and wilful breach of the common judgment and order by the Respondents.

11. Notwithstanding the above, in any event, and as more particularly held by various judicial pronouncements, discussed hereunder, the present Contempt Petition is based entirely on non-compliance/non-payment of the decretal amount (of money) awarded in the common judgment and order and the same would not be maintainable since the common judgment and order is capable of being executed. It is a well settled proposition that where there is an alternate efficacious remedy, contempt jurisdiction cannot be invoked. This proposition would also apply to cases where an order is capable of being enforced through execution, in which cases, the Apex Court and this Court have in several cases held that a Contempt Petition would not lie.

12. Admittedly, till date, the Petitioner has not filed any execution proceedings to execute the common judgment and order and therefore, the Petitioner cannot be permitted to use the contempt jurisdiction of this Court to enforce the same. This view is also reiterated in the decision in ***R.N. Dey* (supra)** where the Supreme Court has held that the weapon of contempt is not to be used for the execution of the decree or implementation of an order for which an alternate remedy in law is provided for.

13. Section 26 (2) of the said Act states that every award is deemed to be a decree and the statement of grounds of every such award, are deemed to be a judgment within the meaning of Section 2 (2) and Section 2 (9) respectively of the Code of Civil Procedure, 1908 **(CPC)** for which, a remedy of execution is expressly provided. Moreover, as laid down in ***Lifestyle Equities*** **(supra)**, although the word "shall" has been used in Order 41, Rule 5 of the CPC, yet the same is not mandatory in character and an exceptional case has to be made out for seeking an unconditional stay of execution of a money decree and if such case is made out, the Appellate Court always has the discretion to stay the execution of the money decree without imposing any conditions. It has also been held that there is no principle of universal rule that in all cases of money decree, the Defendant has to be directed to deposit the amount in Court and only then the question of stay can be considered.

14. Mr. Joshi is at pains to point out the various grounds of challenge that have been raised by his clients in the Appeal that has been preferred against the common judgment and order and submits that he would be in a position to convince the Appellate Court hearing this Appeal that the common judgment and order is required to be stayed without the requirement of his clients making the entire monetary deposit.

15. Moreover, the law of contempt is well settled by several past judicial pronouncements which state that contempt jurisdiction can be invoked by a party only if such party is in a position to prove that there is a deliberate and willful breach of an order passed by the Court.

16. Moreover, as held in ***Ram Kishan*** **(supra)**, in order to punish the contemnor, it has to be established that the disobedience of the order is willful. In the present case, this Court does not find that there is any such willful disobedience on the part of the Respondents in complying with the common judgment and order. The judgments in ***Bank of Baroda*** **(supra)** and ***Maninderjit Singh Bitta*** **(supra)** are also of no assistance to the Petitioner and are easily distinguishable in facts. There is no undertaking or consent terms that has been breached or violated in the present case as was the case in ***Bank of Baroda*** **(supra).** In ***Maninderjit Singh Bitta*** **(supra)** the Supreme Court had directed compliance of certain provisions of the Motor Vehicles Act, 1988 **(MV Act)**, Motor Vehicles Rules, 1989 **(MV Rules)** and the implementation of the HSRP Scheme framed thereunder be done by various States which was not done and it is under those peculiar facts that the said judgment came to be passed. This is admittedly not the case in the present matter and hence, these judgments do not assist the Petitioner.

17. In the circumstances, this Court is of the considered opinion that there is no merit in the present Contempt Petition and the same ought not to be entertained. Accordingly, the following order is passed:

:: ORDER ::

(i) The Contempt Petition is hereby dismissed.

(ii) There shall be no order as to costs.

(FARHAN P. DUBASH, J.)

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