



**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

CONTEMPT PETITION (CIVIL) NO. 712 OF 2023

IN

SLP (CIVIL) NO. 17433 OF 2021

**M/S CHITHRA WOODS MANORS
WELFARE ASSOCIATION**

PETITIONER (S)

VERSUS

SHAJI AUGUSTINE

ALLEGED CONTEMNOR/RESPONDENT

J U D G M E N T

AUGUSTINE GEORGE MASI, J.

1. The instant Contempt Petition (Civil) No. 712 of 2023 (hereinafter referred to as “instant Petition”) in SLP (C) No. 17433 of 2021 (hereinafter referred to as “main Petition”) was filed during its pendency by M/s Chithra Woods Manors Welfare Association, being the Respondent No. 01 therein (hereinafter referred to as “Petitioner Association”), alleging non-payment of arrears of use and occupation charges for period between 20.09.2021 and 31.11.2022 in six monthly instalments beginning 31.12.2022, as

directed by this Court vide Order dated 07.11.2022 in the main Petition.

2. This petition was then tagged along with the main Petition vide Order dated 24.02.2023 and eventually, owing to the said non-payment of arrears, the main Petition was disposed of as this Court observed to not entertain the prayer of Mr Shaji Augustine, the Petitioner therein (hereinafter referred to as “Respondent-Contemnor”) but the proceedings in instant Petition sustained.
3. Facts forming the backdrop of the instant Petition are that the Petitioner Association is owner of the decree scheduled building, consisting of 96 furnished studio apartments, at Munnar, Kerala (hereinafter referred to as the “said Property”). An agreement was entered between the Petitioner Association and Respondent-Contemnor on 26.01.2014, permitting the latter to occupy and use the said Property for a period of 10 years as against payment of licence fees of INR 12 Lakhs per month (hereinafter referred to as the “said Agreement”).
4. Within a short period of entering into the said Agreement, Respondent-Contemnor defaulted in payment of the license fees. On persistent default, Petitioner Association was constrained to institute OS No.30 of 2015 before the Sub Court at Thodupuzha, Kerala for realization of the arrears and other reliefs. As there was an arbitration clause in the said Agreement and on consent of the parties herein, the dispute was referred to a Sole Arbitrator.

5. Before the Sole Arbitrator, the Petitioner Association moved I.A. No. 01 of 2016 under Section 17 of the *Arbitration and Conciliation Act, 1996* (hereinafter referred to as “A&C Act”), seeking direction to the Respondent-Contemnor to deposit INR 1,65,73,459/- (Rupees One crore Sixty-Five Lakhs Seventy-Three Thousand Four Hundred Fifty-Nine only) during pendency of the proceedings. The same was partially allowed vide Order dated 23.06.2016 with direction to deposit INR 1,36,49,439/- (Rupees One crore Thirty-Six Lakhs Forty-Nine Thousand Four Hundred Thirty-Nine only) and per undertaking of the Respondent-Contemnor, payment of INR 12 lakhs per mensem for month of June 2016 onwards, on or before the 10th of the succeeding month, pending disposal of the proceedings.
6. Both Respondent-Contemnor and Petitioner Association moved in appeal under Section 37 of the A&C Act before the District Court at Ernakulam, Kerala. A Common Order dated 21.01.2017 was passed, staying the proceedings before the Sole Arbitrator with reiteration of direction to Respondent-Contemnor to pay arrears at the rate of INR 12 Lakhs per month with effect from 08.09.2016 with a further order to continue to pay INR 12 Lakhs per month towards monthly license fee.
7. This common order was challenged by the Respondent-Contemnor before the High Court of Kerala in O.P. (C) No 552 of 2017. The matter was referred for mediation at the

request of the parties. The said mediation proceedings, lead to a Compromise dated 03.04.2017 (hereinafter referred to as the “Settlement Agreement”), Petitioner Association agreed to reduce the monthly license fees to INR 8 Lakhs per month. Arrears, as claimed before the Sole Arbitrator, were also reduced from INR 1,65,73,439/- to INR 75 Lakhs. Moreover, it was specifically recorded that the settlement entered between the parties would form part of the judgment. There was a specific clause that in case of default by any of the parties to any of the terms of the agreement the other would be entitled to proceed against the other party. The parties resolved their disputes, and the terms of settlement arrived at between them were accepted by the High Court of Kerala and were incorporated in the Order dated 11.04.2017.

8. On default on the part of the Respondent-Contemnor in making payment through a promissory note, as per the Settlement Agreement, Petitioner Association preferred Execution Petition No. 58 of 2020 on 11.03.2020, no money was paid by the Respondent-Contemnor with effect from the month of July 2018. The Respondent-Contemnor was unsuccessful before the District Court in EA No. 14 of 2021 in its challenge to the maintainability of the execution petition. The Execution Court passed an Order dated 23.03.2021, giving an instalment facility to the Respondent-Contemnor for payments of its arrears, with the first being due on 01.06.2021 and the last being

01.09.2021. Furthermore, the amount of arrears being undisputed, and nothing having been paid, the Execution Court ordered delivery of the said Property. The Respondent-Contemnor challenged the order of the Execution Court before the High Court of Kerala, which was dismissed vide Judgment dated 20.09.2021.

9. It is at this stage that the respondent preferred the main Petition before this Court challenging the Judgment dated 20.09.2021. Notice was issued vide Order dated 12.11.2021 and subsequently, status quo was ordered vide Order dated 04.02.2022 *vis-à-vis* the said Property. The matter ultimately came for consideration on 07.11.2022 when following Order was passed:-

“List on a non-miscellaneous day in the month of March, 2023.

In the meanwhile, as an interim measure, we are inclined to direct that the petitioner will pay Rs. 12 lakhs per month to the respondent as use and occupation charges w.e.f. 20.09.2021 (the date of the impugned judgment). As prayed on behalf of the petitioner, the arrears @ Rs. 12 lakhs per month from 20.09.2021 till 31.11.2022, would be paid in six monthly instalments beginning 31.12.2022. The petitioner would also continue to make payment of Rs. 12 lakhs per month in the future by the 10th day of each succeeding calendar month.

The payment would be subject to the outcome of the present Special Leave Petition.”

10. A perusal of the above would show that a direction was issued to the Respondent-Contemnor to pay arrears for the period specified therein in six monthly instalments beginning from 31.12.2022, totalling to INR 172 Lakhs, at

the rate of INR 12 Lakhs per month, and being INR 28.60 Lakhs per instalment.

11. Pursuant to the Order dated 07.11.2022, the Respondent-Contemnor sent an e-mail to the Petitioner Association containing a letter dated 17.11.2022 seeking the concerned account details of the Petitioner Association for the Respondent-Contemnor to transfer the arrears enabling him to affect compliance with Order dated 07.11.2022 passed by this Court. The said details were provided by the Petitioner Association on 14.12.2022 in response to the aforesaid e-mail. Despite getting the required information, no amount was paid to the Petitioner Association and yet, the Respondent-Contemnor continued to enjoy and occupy the said Property. It is apparent that the intention on the part of the Respondent-Contemnor was not to do away with the possession of the said Property and to hold on to it owing to his act of moving the main Petition for challenging the handing over of the possession of the said Property.
12. Petitioner Association asserts that deliberate action on behalf of the respondent in not complying with the direction issued by this Court on 17.11.2022 with continuous default on his part amounts to civil contempt which is deliberate and intentional disobedience of the order of this Court.

13. Subsequently, on 01.12.2023, when both the main Petition and instant Petition were taken up for hearing following order was passed:-

“The learned counsel appearing for the petitioner states that the petitioner has already vacated the premises subject matter of this Special Leave Petition.

We find that the order dated 7th November, 2022 directing the petitioner to deposit money has not been complied with. The petitioner has expressed inability to pay the money. The jurisdiction of this Court under Article 136 of the Constitution of India is always discretionary.

Considering the conduct of the petitioner of not paying a single farthing after 7th November, 2022, we decline to entertain this Special Leave Petition and the same is accordingly dismissed.

However, the question of law is kept open to be considered in an appropriate case.

Pending application also stand disposed of.

CONMT. PET. (C) No. 712/2023 in SLP(C) No. 17433/2021.

List on 22nd January, 2024.”

14. With the main Petition having been dismissed, the instant Petition continued to survive and was taken up for hearing on various dates. Respondent-Contemnor was called upon by this Court on 15.03.2024 to file an affidavit giving details of all his movable and immovable assets as also that of his immediate family members along with the necessary documents. This was in light of the statement of the counsel of the Respondent-Contemnor that he is not in a position to deposit any amount.

15. After filing of the affidavit by the Respondent-Contemnor and on perusal thereof this Court on 12.09.2024 found the

Respondent-Contemnor, who was appearing through video conferencing, of having committed wilful breach of the directions contained in the Order dated 07.11.2022. The Respondent-Contemnor was ordered to be heard on the said charge as no amount had been paid by him and was directed to be personally present in Court. The Respondent-Contemnor subsequently appeared and an opportunity was given to comply with the Order while being heard on charge. Owing to his non-intention to comply, the case was kept reserved for orders.

16. Stand of the Respondent-Contemnor in the affidavit which has been filed is that the compliance of the Order dated 07.11.2022 passed by this Court is beyond his financial and physical capabilities. It is thus, neither deliberate nor an intentional non-compliance of the order and is only on account of his penury. He has, thus, prayed for dropping of the current contempt proceedings.
17. Counsel for the Petitioner Association, on the other hand, has asserted that the conduct of the Respondent-Contemnor from the very beginning was clearly indicative of an attempt on the part of the Respondent-Contemnor to hold on to the possession of the said Property. Despite the Settlement Agreement, which has attained finality by virtue of not being challenged, to retain the possession of the said Property, Respondent-Contemnor has constantly litigated across forums. Such an act on part of the Respondent-Contemnor clearly showed that without

making payment of the amount due to the petitioners, he was reaping the fruits of the scheduled property in violation of the terms of settlement.

18. Had it not been a viable preposition, the possession could have been easily handed over by the Respondent-Contemnor. Having taken benefit of the said Property, Respondent-Contemnor cannot be now permitted to take the plea of penury. Rather, it is an intentional non-compliance of the directions issued by this Court even after partial monetary benefit had been conferred upon him *vide* Order dated 07.11.2022. Even till date no payment whatsoever has been made which clearly reflects the *malafide* of the Respondent-Contemnor. A reference is also made to the Order dated 04.02.2022 when status quo was ordered by this Court in relation to the property in question to be maintained. Prayer has thus been made for punishing the Respondent-Contemnor for having committed contempt of this Court's Order dated 07.11.2022.
19. Having considered the submissions made by the counsels for the parties, we are of the considered view that the Respondent-Contemnor has deliberately and with *malafide* intention, not only mislead and misused the process of the courts but has also intentionally violated the order passed by this Court on 07.11.2022 by not making the payment as directed therein.

20. At the prospect of reiteration of the factual matrix, the conduct of the Respondent-Contemnor since the Settlement Agreement reflects his patent intent to retain the said Property and this indicates that the business proposition was not only a viable one but was yielding profits. No person with a modest business acumen would continue with a loss-causing endeavour. Respondent-Contemnor has nowhere reflected the receipts from the business being undertaken in the said Property.
21. Subsequently, he even sought time from the Execution Court, but failed to comply, prompting an order for delivery of possession of the said Property. This, he then challenged through Revision Petition before the High Court of Kerala and ultimately before this Court through the main Petition.
22. It was on his insistence that this Court ordered status quo vide Order dated 04.02.2022. However, he neither paid the dues nor complied with the subsequent Order dated 07.11.2022 mandating payment of INR 12 lakhs per month from 20.09.2021 and arrears in instalments.
23. The e-mail dated 17.11.2022, which was addressed to the Petitioner Association by the Respondent-Contemnor, seeking account details for the concerned amount to be transferred, was responded accordingly by the Petitioner Association vide e-mail dated 26.11.2022. Despite all this, not even a rupee was credited to the account of the Petitioner Association.

24. Faced with this situation, Petitioner Association had no option but to file the instant Petition before this Court leading to issuance of notice on 24.02.2023 along with an opportunity to the Respondent-Contemnor to remedy the default. After various dates, the matter ultimately came for hearing on 01.12.2023, when, owing to non-compliance of Order dated 07.11.2022 for depositing money, the main Petition was dismissed and the instant Petition survived.
25. It is only on 15.03.2024 that for the first time counsel for the Respondent-Contemnor stated that he was not in a position to deposit any amount, whereupon this Court called for details of his immovable and movable assets and that of his immediate family members, along with necessary documents. Physical presence of the Respondent-Contemnor was also ordered in Court on the next date of hearing.
26. Respondent-Contemnor appeared through video conference in Court on 12.07.2024 when the affidavit which was filed by the respondent-contemnor was considered. On perusal thereof, Court found the Respondent-Contemnor having committed a wilful breach of the directions contained in the order dated 07.11.2022. He was, therefore, called upon to face the said charge and with an intention to give him an opportunity of being heard. The matter was listed for hearing with a direction to the contemnor to personally remain present before the Court. The contemnor was heard in person in Court and

was again given an opportunity to comply with the order of which he had committed contempt i.e. non-payment of the amount and the arrears. The contemnor did not express any remorse nor showed any intention to comply with the order passed by this Court rather asserted that he was not in a position to make any payment. It is in these circumstances that the matter is being considered.

27. The e-mail dated 17.11.2022 intrinsically reflects financial capability and liquidity at hands of the Respondent-Contemnor. Had the Respondent-Contemnor been in dire financial difficulty, the said communication would not have come to the fore. Besides, had it been that the Respondent-Contemnor was unable to comply with the Order dated 07.11.2022 he should have moved this Court for modification or withdrawal of the order.
28. All throughout, the Respondent-Contemnor had been in possession of the said Property and had been utilising the income generated from running of the said resort. Acceptance on the part of the Respondent-Contemnor with regard to the viability of the project is apparent from the Order dated 07.11.2022 and his conduct. This would not permit the Respondent-Contemnor to now turn around and state that he is unable to make payment of not only the monthly dues for use and occupation charges after passing of the Order dated 07.11.2022 but also the arrears as per which terms and conditions were fixed by this Court in accordance with the prayer made by him. Non-

fulfilment of the mandate and direction of this Court which were at the request of the Respondent-Contemnor himself reflects the intent on the part of the Respondent-Contemnor to not to comply with the order rather to violate with the same with impunity. The conduct clearly reflects that the intention of the Respondent-Contemnor was to gain the benefit by running the resort in the subject property without paying the current liability, what to say of the arrears.

29. Moreover, the amount which has been earned from the resort being run by the Respondent-Contemnor has not been accounted for. It can therefore easily be said that there has been intentional and deliberate non-compliance on the part of the Respondent-Contemnor of the order passed by this Court, contempt of which stands committed, but on getting an interim order of continuing in possession usurped the earnings instead of paying off the dues.
30. The *malafide* is therefore writ large and reflect the misuse of the process of the Court. After seeking an order from this Court where benefit has been conferred on the basis of the submissions of the Respondent-Contemnor, not complying therewith amounts to contempt of Court.
31. The power and jurisdiction of this Court to initiate and punish for its contempt has not been disputed. It is well settled by now and it is apparent from the provisions of the Contempt of Court Act that Civil contempt means wilful

disobedience of judgment, decree, or direction, order, writ or other process of the Court or wilful breach of an undertaking given to the Court.

32. Civil contempt, as is apparent from Section 2(b) of the Contempt of Court Act 1971, means a wilful disobedience of any judgment, direction or order passed by the Court. All through, as has been detailed above, the intention on the part of the Respondent-Contemnor was to use the judicial proceedings for his advantage taking undue benefit at the peril and cost of wrong assertions and submissions put forth before the Court which would amount to misleading the Court into believing the *bonafide* at the hands of the Respondent-Contemnor. It would amount to an attempt to exploit the procedural process of Court to outreach and manoeuvre it resulting in abuse of law and legal proceedings.
33. Any person who misuses the process of the Court with ulterior motives cannot be said to be a person having approached the Court with clean hands. A person who tries to tarnish the process of litigation to the extent of misguiding and misleading the proceedings before the Court resulting in passing of order(s) which are to his benefit at the cost of the loss of dignity, leading to shrinkage of the faith of the common man in the judicial process cannot be permitted.

34. This Court, in ***Hira Lal Dixit v. State of Uttar Pradesh***¹ in paras 9 and 10 held as follows:

“9. It should no doubt be constantly borne in mind that the summary jurisdiction exercised by the superior courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as is administered in the court and thereby affording protection to public interest in the purity of the administration of justice. This is certainly an extraordinary power which must be sparingly exercised but where the public interest demands it, the court will not shrink from exercising it and imposing punishment even by way of imprisonment, in cases where a mere fine may not be adequate.

10. After anxious consideration we have come to the conclusion that in all the circumstances of this case it is a fit case where the power of the Court should be exercised and that it is necessary to impose the punishment of imprisonment. People must know that they cannot with impunity hinder or obstruct or attempt to hinder or obstruct the due course of administration of justice.”

35. Further, in ***Bank of India v. Vijay Transport And Others***², this Court with reference to Section 2 & 12 of Contempt of Courts Act, 1971 held that the jurisdiction so conferred is to be exercised after having come to the conclusion and satisfaction with regard to the commission of contempt. This Court further went on to hold that the said satisfaction can be derived by the Court with regard to the commission of the contempt from the circumstances of the case. The conduct of the party who/which is facing the charge of contempt, not only after the issuance of the

¹ (1954) 2 SCC 325

² (2000) 8 SCC 512

notice but prior thereto, could also be taken into consideration.

36. A party, misguiding the Court to pass an order which was never intended to be complied with, would constitute an act of overawing the due process of law and, thus, commit contempt of Court. In the instant case, the opportunity having been availed, time having been sought and granted by the Court further reflects the intent on the part of the Respondent-Contemnor to discard and tarnish the judicial process by polluting it. Disobedience of the order of the Court in such circumstances would be the only result and thus, civil contempt.
37. The pure stream of justice cannot be allowed to be polluted at all. Reference at this stage needs to be made to the latest decision of this Court in **Sitaram Enterprises v. Prithviraj Vardichand Jain**³ wherein in para 1 to 3 it has been held as follows:-

“Disregarding a Court's order may seem bold, but the shadows of its consequences are long and cold.”

1. *Contempt of court is a serious legal infraction that strikes at the very soul of justice and the sanctity of legal proceedings. It goes beyond from mere defiance of a Court's authority, but also denotes a profound challenge to the principles that underpin the rule of law. At its core, it is a profound disavowal of the respect and adherence to the judicial process, posing a concerning threat to integrity of judicial system. When a party engages in contempt, it does more than simply refusing to comply with a Court's order. By failing to adhere to judicial directives, a contemnor not only disrespects the specific order, but also directly*

³ 2024 SCC OnLine SC 2493

questions the Court's ability to uphold the rule of law. It erodes the public confidence in the judicial system and its ability to deliver justice impartially and effectively. Therefore, power to punish for Contempt of Court's order is vital to safeguard the authority and efficiency of the judicial system. By addressing and penalizing contemptuous conduct, the legal system reinforces its own legitimacy and ensures that judicial orders and proceedings are taken seriously. This deterrent effect helps to maintain the rule of law and reinforces public's faith in the judicial process, ensuring that Courts can function effectively without undue interference or disrespect.

- 2. Contempt powers are integral to maintaining the sanctity of judicial proceedings. The ability to address contempt ensures that the authority of the court is respected and that the administration of justice is not hampered by willful disobedience. In the said context, the power of this Court to punish for contempt is a cornerstone of its authority, integral to the administration of justice and the maintenance of its own dignity. Enshrined in Article 129 of the Constitution of India, this power is essential for upholding the rule of law and ensuring due compliance by addressing actions that undermine its authority, obstruct its proceedings, or diminish the public trust and confidence in the judicial system.*
- 3. The Courts ordinarily take lenient approach in a case of some delay in compliance of the orders, unless the same is deliberate and willful, on confronting the conduct of the contemnor that strikes the very heart of judicial authority. Undoubtedly, this appalling breach of legal decorum has in its face challenged the sanctity of the orders passed by this Court and hence we are constrained to examine Contemnor/tenant's willful and deliberate act of non-compliance of the order and also the undertaking furnished by him as directed."*

38. The above principles and the observations, as made by this Court, would fully apply to the case at hand where, from the very beginning till the very end the Respondent-Contemnor has been taking the Court for a ride. The misuse of the process of Court with an intent to tarnish

the image of judiciary, threatening the integrity, and the efficiency of the judicial system cannot be allowed to be overlooked and ignored in the garb of non-fulfilment of the directions because of now said to be faced financial constraints.

39. The Respondent-Contemnor cannot be allowed to go scot free after having taken this Court at a stage where his conduct leaves this Court with no option but to take strict action and to punish him for the contempt committed by him, i.e., non-compliance of the directions issued by this Court vide Order dated 07.11.2022.
40. This case, in our opinion, would not be one where mere imposition of fine would suffice. In the given facts and circumstances of the present case, we are convinced that the Respondent-Contemnor is liable to be punished for the contumacious conduct.
41. We, in the above facts and circumstances, hold Shaji Augustine-Respondent, guilty of Civil Contempt and impose punishment of Simple Imprisonment for three months along with fine of INR 20,000/- to be deposited in two weeks, and in case of default, further Simple Imprisonment for one month.
42. Giving one more opportunity to the Respondent-Contemnor to purge the contempt, 30 days time is granted to him to comply with the Order dated 07.11.2022 and submit compliance report to the Registrar Judicial of this

Court a week thereafter. The punishment, as aforesaid, would come into effect in case the directions as contained in the Order dated 07.11.2022 are not complied with, within 30 days of the pronouncement of this judgment. The contempt proceedings are disposed of.

43. Pending application(s), if any, also stand disposed of.

.....J.
[ABHAY S. OKA]

.....J.
[AUGUSTINE GEORGE MASIH]

**NEW DELHI;
APRIL 24, 2025**