2024 INSC 685

‘REPORTABLE’

IN THE SUPREME COURT OF INDIA

INHERENT JURISDICTION

CONTEMPT PETITION (CIVIL) NOS. 196-197 OF 2024
IN
SPECIAL LEAVE PETITION (CIVIL) NOS. 12081-12082 OF 2023

M/s SITARAM ENTERPRISES **Petitioner(s)**

VERSUS

PRITHVIRAJ VARDICHAND JAIN **Respondent(s)**

WITH

CONTEMPT PETITION (CIVIL) NOS.198-199 OF 2024
IN
SPECIAL LEAVE PETITION (CIVIL) NOS. 12083-12084 OF 2023

O R D E R

“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 questions the Court's ability to uphold the rule of law. It erodes the public confidence in the judicial system and it's 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.

4. In the case at hand, the present petitioner/landlord (in the contempt petitions) filed suits[1] before the Court of Small Causes at Bombay (Bandra Branch)

1 R.A.E. & R. Suit Nos.43/137 & 111/300 of 2003

seeking eviction of the respondent/tenant (contemnor) from a Shop No. 3 and Room No. 4 of the properties belonging to the petitioner/landlord being Municipal House Nos. 427, 430 and 431 C.T.S. Nos. 38, 38/1 to 13 and T.P.S. Plot No.23 (part) of Village Kanhari, Taluka Borivali B.S.D. situated at Corner of 9 Kasturba Road, Borivali (East), Mumbai – 400066 on the ground of bona fide need and also due to non-payment of rent and arrears against the respondent/tenant.

4.1 The said suits were decreed by the Trial Court vide Judgment dated 21.08.2015. Aggrieved against the same, the respondent/tenant preferred appeals[2] before the Appellate Bench of the Court of Small Causes at Bandra, Mumbai. The same were dismissed vide judgment dated 25.08.2022.

4.2 Being dissatisfied, the respondent/tenant challenged the judgment and decree of the Appellate Court before the High Court[3] by filing Civil Revisions[4], which were dismissed vide order dated 12.10.2022. It appears that the intention of the respondent/tenant was to prolong the litigation, he filed review petitions[5], which were also

2 Appeal Nos.39 and 40 of 2015
3 High Court of Judicature at Bombay
4 Civil Revision Application Nos.453 of 2022 and 454 of 2022
5 Review Petition Nos.9 and 10 of 2022

dismissed by the High Court vide order dated 07.12.2022.

4.3 As the litigation was not to end there only, the respondent/tenant challenged the aforesaid common order passed by the High Court by filing the Special Leave Petitions[6] before this Court.

4.4 When the matter was listed before this Court on 06.06.2023, the petitioner/landlord appeared on caveat. After hearing learned counsel for the respondent/tenant, this Court did not find any merit in the Special Leave Petitions and accordingly, the same were dismissed and granted nine (9) months' time to vacate the premises subject to filing of undertaking and affidavit by tenant before this Court. Till vacation of the said premises, the respondent/tenant was liable to pay charges for use and occupation equivalent to the monthly rent. The order specifically mention that breach of undertaking might give rise to contempt proceedings.

4.5 The respondent/tenant failed to furnish the undertaking as envisaged in the order passed by this Court on 06.06.2023, and filed the Review Petitions[7] which were

6 Special Leave Petition (C) No. 12081-12082 of 2023
7 Review Petitions arising out of R.P. Diary No.26984 of 2023

also dismissed by this Court on 07.02.2024.

4.6 It appears that contemnor intended to retain possession, hence, he had filed applications seeking extension of time to vacate the premises, and only at that time he furnished the undertaking/affidavit dated 22.02.2024. Those applications were registered as M.A. Nos. 405-406 of 2024 & M.A. Nos. 407-408 of 2024, and were dismissed on 04.03.2024. This Court has not allowed extension of time as prayed and the nine months period granted by this Court was to expire on 06.03.2024.

5. The petitioner-landlord in this fact situation got a notice[8] issued to the respondent/tenant calling upon him to hand over the physical possession of the suit premises on 06.03.2024 by 11:00 a.m. and vacate the same. Yet the possession of the premises in dispute was not handed over, therefore, the present contempt petitions were filed.

6. Upon issuing notice on 26.04.2024 returnable on 09.07.2024, it was directed that the alleged contemnor will remain present in the Court. On the date fixed, Mr. Chander Prakash Mishra, Advocate, appeared on his behalf, but he

8 Dated 04.03.2024

himself did not appear, though as per Office Report, service on respondent/tenant was not complete. The counsel representing him sought two weeks' time to file counter affidavit on the pretext that the respondent is hospitalized. As prayed time was allowed upto 29.07.2024 with direction to contemnor to remain present in Court on the next date of hearing.

7. The Office Report dated 27.07.2024 indicates that the counsel who had put appearance on behalf of the respondent on 09.07.2024 had neither filed the vakalatanama nor counter affidavit, therefore, while directing the physical presence of contemnor, all the facts were noticed in detail in the proceedings dated 29.07.2024. Again contemnor had neither filed the counter affidavit nor appeared to show respect and comply the orders of this Court. On the said date, new counsel, Mr. Prakash Kumar Singh had put in appearance on his behalf and said that Curative Petitions have been filed, which are pending and the contemnor is hospitalized. He sought time.

8. Noticing all the above said facts and his conduct, this Court was *prima-facie* convinced that the respondent is

deliberately and willfully disobeying the orders, and despite specific directions issued earlier, failed to appear in person. Thus, to secure his attendance bailable warrant for his presence on the next date i.e., 12.08.2024 was issued.

9. As per the proceedings dated 12.08.2024, it is clear that despite service of bailable warrant, respondent/contemnor neither appeared nor filed any application seeking exemption from personal appearance clearly stating the reasons for his absence. In the said sequel of events, this Court was constrained to issue non-bailable warrant of arrest for securing his presence and for compliance of the orders to vacate the suit premises, fixing the matter on 02.09.2024. As per office report, non-bailable warrant issued could not be served on his address for the reason that the son of contemnor who was found present at the shop and the wife at home informed the police officials that the respondent/contemnor has gone to Delhi in connection with the case.

10. In addition the conduct of the respondent/contemnor was unveiled by his earlier counsel Shri Prakash Kumar Singh present in Court on 02.09.2024,

who informed that he has received the message from contemnor not to appear on his behalf and as stated by him, it was recorded in the order. The order dated 02.09.2024 is relevant to show his conduct, therefore, extracted below for ready reference:

> *"5. Shri Prakash Kumar Singh, Advocate on Record, who was appearing on behalf of the respondent-contemnor, has stated that he has received a telephonic call on his Mobile No. 9891223681 from Mobile No. 9146553252 supposed to be a mobile of contemnor or his son and received the messages. One of the messages regarding his disengagement and non-appearance on next date is reproduced as under:*
>
> *"To,*
>
> *Mr. Prakash Singh Tomar.*
>
> *From, Prithviraj Vardichand Jain.*
>
> *Date: 01/09/2024*
>
> *Sir, as I have informed you earlier that you will not be appear in my matter, which is listed on 2nd September, therefore I am sending reminder to you that please don't appear in my case & I have appointed a new Advocate for pursuing my case. So pls take note for the same."*
>
> *6. The photocopy of the said scanned*

message and other connected communications have been placed on record of this file.

7. We request learned counsel to save these messages in his mobile number in original form and may not be deleted until further orders of this Court.

8. Mr. Prakash Kumar Singh, Advocate on Record, in view of the said message seeks discharge from appearing in the matter. We discharge him from appearance but at present, we are not disassociating from this case.

9. The new Advocate on Record Mr. Ashutosh Kumar Mishra, is not present in the Court as informed by the learned counsel Mr. Nityanand Singh now appearing for contemnor. He states that Mr. Anil Kumar, son of the contemnor, has visited to his office at Delhi and met him. On his instructions, he has engaged the AOR Mr. Ashutosh Kumar Mishra and now he is appearing for the respondent-contemnor. The son of contemnor has stated that his father is bed ridden and not in a position to come and appear in the Court. No application has been filed on behalf of the contemnor indicating all these facts seeking exemption and asking date for his appearance in terms of the previous orders.

10. In view of the factual scenario as

indicated hereinabove, it is clear that the contemnor and his son both are aware of the proceedings of the Court and watching it thoroughly. It is also clear that contemnor has not come to Delhi and his son Anil came and contacted Mr. Nityanand Singh, Advocate, as stated before us. Therefore, the information furnished to the ASI by his son Mr. Rajesh and his wife Ms. Mangibai is incorrect and on the basis of such incorrect information, service of non-bailable warrant of arrest has been returned back to the Registrar of the Supreme Court only by the Police Inspector without supervising it by the Superintendent of the Police/ACP of the concerned area."

11. In view of the above and for the reasons recorded, fresh non-bailable warrant was issued against respondent/contemnor for securing his physical presence in Court, clearly specifying that non execution of warrant may cause appearance of Assistant Commissioner as well as the Inspector of the police of the area.

12. Today, when the matter was taken up, the respondent/contemnor has been produced in custody by Mr. Devidas Sadashiv Pokale, Sub-Inspector of Mumbai Police,

accompanied with Mr. Sumer Singh (D-5896) Sub-Inspector and Mr. Akash Yadav (2426/DAP) Head Constable, both of Delhi Police posted at Tihar Jail. On appearance of contemnor, no doubt he appears to be a senior citizen, however, to gain sympathy of the Court started shedding tears. He showcased difficulty in standing, however, the Court offered him a chair and a glass of water. On being asked why he has not yet complied the orders, it was submitted by him that he is a poor person with large family to support, and apologised for his conduct and later sought pardon. In the same breath he said that the Curative Petitions filed by him are still pending, and until those are decided, time may be granted. Then, he pleaded that, he has no other place to shift his large family and requested to grant him at least one month time to vacate the suit premises. His newly engaged counsel also argued in same line to grant time to hand over the possession of the subject property.

13. From the above facts, on the cost of repetition, it is necessary to observe that while dismissing the Special Leave Petitions on 6.6.2023 being meritless, nine months' time to vacate and handover the peaceful possession of the suit

property was allowed. The contemnor was required to furnish an undertaking in this regard, which was not initially submitted by him. The contemnor continued to litigate and filed Review Petitions, which were also dismissed on 7.2.2024. Thereafter, he had chosen to file applications seeking extension of time of nine months to vacate the suit premises. On dismissal of said applications on 4.3.2024, the contemnor has not vacated the suit premises though he was required to do so on or before 6.3.2024. Even after filing of Contempt Petition and appearance of the advocate in the matter on his behalf, peaceful possession was not delivered to the landlord. On an endeavour made by this Court to call him for delivery of peaceful possession as directed by this Court on 6.6.2023, he deliberately did not appear despite specific direction issued at least three times for his personal appearance in the Court. On service of bailable warrant for his presence, he did not appear on the date so fixed. On issuance of the non-bailable warrants of arrest, he and his family members mislead the police official on account of which the said non-bailable warrants could not be executed, as reflects and extracted above in the order dated 02.09.2024. However,

when the second order was passed by this Court issuing fresh non-bailable warrants, he was produced in the court. The contemnor was unable to explain his conduct, as noticed above and made a request that time to vacate the premises may be extended till decision of the Curative Petition.

14. It is needless to observe that the Curative Petition is to be decided in Chamber and the said recourse is not permissible as a matter of right to the contemnor. Later, he sought a month's time to vacate the suit premises. In our view, after dismissal of the Special Leave Petitions, Review Petitions and applications for extension of time to vacate the suit premises, said prayer is wholly unreasonable and a deliberate attempt to not to comply the directions issued by this Court to which he furnished an undertaking at a later stage. It is to observe that on dismissal of Special Leave Petitions on 6.6.2023 and lapse of nine months' time on 6.3.2024, possession of the suit premises has not been delivered to the petitioner landlord complying the order of this Court. From the date of expiry of time to hand over the possession i.e., 6.3.2024, six months' further period has elapsed, even then compliance is not reported till today.

15. Considering all the facts and attending circumstances narrated above, we are of the view that it is a case in which the contemnor has deliberately and willfully not complied the order of this Court dated 6.6.2023 and flouted the same. Therefore, we are constrained to hold him guilty for non-compliance of the directions of this Court. We also find no substance in the explanation furnished by him, as discussed above.

16. Upon holding the contemnor guilty of the contempt of order of this Court, we had granted an opportunity to him before we pass any order on sentence. Again the contemnor submits that being old aged person, having many illness and to support a large family, he may be granted pardon and be allowed a week time to vacate the suit premises.

17. From the discussion made hereinabove, we were reluctant to grant further time to vacate the suit premises, but in the interest of justice, we grant a week’s time to hand over the vacant and peaceful possession of the suit premises to the petitioner-landlord, otherwise, we direct that the order passed by this Court on 6.6.2023 shall be complied with taking forceful possession from him.

18. Accordingly, we dispose-of these petitions with following directions –

18.1 The respondent/contemnor shall hand over vacant possession of both the properties to M/s Sitaram Enterprises as undertaken in furtherance to the order dated 06.06.2023 passed by this Court in SLP(C) Nos. 12081-12082/2023 (Diary No.41124/2022) and SLP(C) Nos. 12083-12084/2023 (Diary No.41118/2022) within a period of seven days.

18.2 In case of failure, within next seven days on a warrant of possession issued by the 68th Judicial Magistrate, First Class, Borivali West, Mumbai, the possession of the properties in question shall be taken with the police help in the presence of a Court Commissioner, who shall prepare inventory of the material lying in the premises and handover the same to the respondent/contemnor against receipt. Fee of the Court Commissioner to be paid and the cost of police help also shall be borne by the respondent/contemnor.

18.3 Appropriate order in this regard shall be passed by the said executing Court. After taking the possession from the respondent/contemnor the same shall be handed over to the

petitioner/landlord and a report be sent to this Court.

18.4 Considering the age and health condition of the contemnor, instead of sending him jail, he is sentenced till rising of the Court and released as per the order passed in the proceeding. It is further directed that amount spent by the state exchequer in execution of the non-bailable warrants and to produce the contemnor before this Court in the Contempt Petitions and in execution of Court order shall be borne by contemnor and recoverable against him. The details of the amount spent shall be informed by the competent authority to the contemnor and the executing court within four weeks from today which shall be deposited by the contemnor within four weeks thereafter.

19. Pending application if any, shall also stand disposed-of.

......, J.
[J.K. MAHESHWARI]

......, J.
[RAJESH BINDAL]

New Delhi;
September 09, 2024.