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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 15 OF 2020

Thakurdas Khinvraj Rathi,
a partnership firm, Rajasthan

....Petitioner

V/s

Official Liquidator Cals Refineries Ltd.

(in Liquidation) Ms. Sarita Joshi, New Delhi & Ors.Respondents

Mr. Vikram Deshmukh a/w. Ms. Sana Khan, Arundhati Korale i/b.
Jurisperitus Mumbai for the Petitioner.

Mr. Amrut Joshi a/w. Ms. Faiza Dhanani & Mr. Yazad Udwadia i/b.
CUE Legal for Respondent Nos.2, 4 & 5.

CORAM : M.M. SATHAYE, J.

DATE : 14th JANUARY, 2026

P.C. :

1. Heard learned counsel for the parties. Perused the record.
2. This contempt petition is filed under the provisions of the Contempt of Courts Act, 1971 ('the said Act', for short) alleging willful disobedience of the order dated 15.09.2010 passed by the Additional Commissioner of Konkan Division, by which in Revision Application No. 232 of 2010 filed by Respondent No.1 Company is rejected and Revision Application No. 278 of 2010, filed by the Petitioner is allowed thereby modifying the order of the Competent Authority under the Maharashtra Rent Control Act, 1999 ('MRC Act' for short) directing Respondent No.1 Company to pay arrears of compensation alongwith interest and liquidated damages with further interest thereon.

3. The case of the Petitioner, in short, is as under.

3.1) Respondent No.1 is a Company and Respondent Nos.2 to 5 are its ex-directors. The Petitioner filed company petition against Respondent No.1 Company under the provisions of Insolvency and Bankruptcy Code Code ('I&B Code', for short) before the National Company Law Tribunal, Delhi, (NCLT, Delhi), which has passed an order on 10.06.2019 appointing Official Liquidator on Respondent No.1 Company.

3.2) That the Petitioner owned suit premises being Flat No.17 admeasuring 1400 sq. ft. carpet area on the 3rd floor building known "Shanti Niketan" situated at 95A, Marine Drive, Mumbai with garage No.7. That the suit premises were given to Respondent No.1 Company on leave and license basis by a registered Leave and License Agreement dated 10.03.2008 and License and Hire Charges Agreement is of the same date. That under the said agreements, Respondent No.1 Company was required to pay yearly license fees of Rs.24,00,000/- and yearly license and hire charges of Rs.19,80,000/- for furniture and fixture. That both the agreements were for period of 5 years, expiring on 09.03.2013.

3.3) That dispute arose due to certain additions and alternations carried out by Respondent No.1 Company in the suit premises, which resulted in leakages and Respondent No.1 Company filed L.D. Suit No.250 of 2008 before the Small Causes Court at Mumbai praying for declaration that the said agreements are valid, subsisting and binding on the Petitioner. In the said suit, the Small Causes Court passed an

order dated 17.04.2009 granting injunction against the Petitioner subject to Respondent No.1 Company paying compensation as per terms and conditions of the said agreements. The Petitioner was permitted to withdraw the amount. Respondent No.1 Company withdrew the said suit on 13.11.2009.

3.4) That the Petitioner terminated the said agreements by Advocate's letter dated 17.12.2009 and initiated proceedings under Section 24 of the MRC Act for recovery of possession and compensation. The Competent Authority passed an order of eviction directing Respondent No.1 Company to hand over vacant and peaceful possession of the suit premises to the Petitioner and further directed arrears of compensation. Respondent No.1 Company vacated the suit premises on 01.05.2010, however, the order of payment of compensation was not complied, flouted and disregarded.

3.5) That the order of the Competent Authority was challenged by both the sides by filing revision applications under Section 44 of the MRC Act. By order dated 15.09.2010, the Additional Commissioner, Konkan Division rejected challenge to the eviction and modified the order of compensation. Respondent No.1 Company filed Writ Petition No. 8743 of 2010 in this Court, which was dismissed by order dated 23.07.2012. Respondent No.1 Company challenged the order of the High Court in the Hon'ble Supreme Court by filing Special Leave Petition (Civil) No. 26349 of 2012 ('the said SLP' for short)

3.6) That the Hon'ble Supreme Court initially directed Respondent No.1 Company to deposit the amount of Rs.43,00,000/- with the

Registry and permitted the Petitioner to withdrew the said amount. This amount was deposited by Respondent No.1 Company and withdrawn by the Petitioner. Ultimately by order dated 08.08.2016 the said SLP was dismissed. Even after dismissal of the said SLP, Respondent No.1 Company did not pay the compensation amount and therefore, the Petitioner issued notices.

3.7) It is the case of the Petitioner that Respondent Nos.2 & 5 who are ex-directors of Respondent No.1 Company and who were in charge of its day to day affairs, at the time of dismissal of the said SLP, were jointly and severally liable to pay to the Petitioner the arrears of the amount of compensation, which became due immediately on its demand on 31.08.2016, after dismissal of SLP. According to the Petitioner, the said Respondent Nos.2 & 5 as directors have willfully disobeyed the order of the Additional Commissioner, Konkan Division, which amounts to civil contempt under the Contempt of Courts Act. According to the Petitioner, Respondents have committed willful and deliberate breach by not paying the amounts.

3.8) The Petitioner filed earlier Contempt Petition No. 13 of 2017 in this Court in which Respondents appeared and sought to explore settlement. By order dated 07.09.2017, this Court directed Respondent Nos.2 to 5 to remain present. Thereafter, by order dated 12.09.2017 this Court dispensed with personal presence of Respondent Nos.3, 4 & 5, however, Respondent No.2 was ordered to be released on bail and was directed to furnish bail bond. Thereafter, in the month of February 2018, during pendency of the earlier

Contempt Petition No. 13 of 2017, Respondent No.2 approached the Petitioner for amicable settlement and agreed to pay Rs.45,00,000/- as full and final settlement within maximum period 8 months subject to the Petitioner withdrawing contempt petition. According to the Petitioner, it was made to believe that settlement amount will be cleared without default if the contempt petition was withdrawn. Therefore, when the earlier contempt petition was listed before this Court on 09.03.2018, both the parties sought adjournment. Relying on the representation and assurance of Respondent No.2 that negotiated dues of Rs.45,00,000/- would be paid, the Petitioner made a request to withdraw the contempt petition which was disposed of on 23.03.2018.

3.9) It is contended that upon disposal of the earlier contempt petition, Respondent No.2 failed and neglected to pay settlement amount and did not honour his assurance and promise. Despite repeated requests and reminders, Respondent No.2 failed or neglected to pay legitimate dues of the Petitioner and therefore has breached and disobeyed the order dated 15.09.2010 passed by Additional Commissioner, Konkan Division.

3.10) It is contended that the contempt of the said order dated 15.09.2010 continued and therefore, the present contempt petition is filed again.

4. Learned counsel Mr. Deshmukh, appearing for the Petitioner, after narrating the aforesaid sequence of events and contentions, submitted that after order dated 10.06.2019 passed in relation to

winding up of the Respondent No.1 company and appointing Respondent No.1 as Official Liquidator, it filed company application before NCLT, Delhi seeking leave to file contempt petition. He submitted that vide order dated 23.09.2019, the said application was dismissed. He submitted that being aggrieved, the Petitioner filed Company Appeal (AT) (Insolvency) No. 1195 of 2019 before National Company Law Appellate Tribunal, New Delhi ('NCLAT' for short), which was disposed of by order dated 11.11.2019, recording that so far as filing of the contempt petition is concerned, it is for the Petitioner to decide to file or not to file the same and no liberty is required. He submitted under bona fide belief that the Petitioner requires permission of NCLT, the application was filed and after the order of NCLAT, the Petitioner has filed present contempt petition. It is stated in the petition that as on date of filing (November, 2019), the Respondent Directors are jointly and severally liable to pay Petitioner an amount of Rs.1,40,35,775/- which amount has increased to Rs. 2,32,68,449/- during pendency of the petition, as per chart submitted. He submitted as on today, he is pressing the contempt petition only against Respondent No.2 Deep Kumar Rastogi, who has resigned from the directorship after the order of this Court passed in earlier contempt petition.

5. Inviting this Court's attention to the order passed by this Court in earlier contempt petition, Mr. Deshmukh submitted that under order dated 07.09.2017, Respondent Nos.2 to 5 were directed to remain present by this Court. It is already held under order dated 12.09.2017 (in CP/13/2017) that prima facie this appears to be a

case where Respondents wish to defy the legal procedures and ensure that orders for payment are not complied with and Respondent No.2 was required to be released on bail. He relied upon the investigation report issued by the Serious Fraud Investigation Office, Ministry of Corporate Affairs, New Delhi which makes reference to directors of Respondent No.1 Company having conspired with object to cheat investors in India and abroad. Relying on report by Interim Resolution Professional dated 13.01.2018, it is submitted that during resolution process, it is found that prima facie, business of Respondent No. 1 appears to be carried with fraudulent purpose. Relying on the order dated 12.07.2019 passed by Securities Appellate Tribunal, Mumbai in Appeal filed by Mr. Gagan Rastogi (son of Respondent No. 2), he submitted that millions of US Dollars have been siphoned off and therefore this is not a case where Respondent No. 2 does not have means to pay.

6. Mr. Joshi, learned counsel for Respondent Nos.2, 4 & 5 relying on affidavit of reply dated 18.02.2021 filed by Respondent No. 2, submitted that at the outset, the Respondent No.2 has tendered an unconditional apology, in the event any breach/disobedience is found to have happened. He further submitted that present contempt petition is barred by limitation, that the same is not maintainable, as earlier contempt petition alleging breach of same order was withdrawn without any liberty reserved by this Court. He submitted that the present contempt petition is nothing but an effort to bypass standing in queue before the liquidator for monetary dues. He submitted that Respondent No.1 company has been in liquidation

only after the Petitioner initiated proceedings under I&B Code in which the company went into liquidation. He submitted that if the paid-up share capital of Respondent No.1 company is as much as the Petitioner contends, then the MRC Act will itself not apply as per exemption u/s. 3 of the MRC Act. He relied on judgment of **Kiran Singh & Ors. Vs. Chaman Paswan & Ors. [(1954) 1 SCC 710]** and **Harshad Chiman Lal Modi Vs. DLF Universal Ltd. & Anr. [(2005) 7 SCC 791]** and **Vikram Bhalchandra Ghongade Vs. State of Maharashtra & Ors. [2025 SCC OnLine SC 2360]**, to contend that the aspect of lack of inherent jurisdiction can be argued at any stage and neither consent nor waiver nor acquiescence can confirm jurisdiction upon the Court otherwise incompetent to try a particular lis.

7. Relying on **Earth Designers & Developers Private Ltd. Vs. M. K. Patil [2003(5) Mh.L.J. 445]** Mr. Joshi submitted that in both cases of contempt under the provisions of Contempt of Courts Act and under Article 215 of the Constitution of India, the period of limitation would commence once the alleged act is committed and the same cannot be arrested because of subsequent acts by Respondents. He submitted that even for suo-motu contempt action, limitation of one year u/s. 20 of the said Act applies.

8. Replying on **Rupali Shah & Anr. Vs. Munesh Ralhan @ Ricky Ralhan & Anr. [2009(3) Mh.L.J. 312]** and **Maheshwar Peri and Ors. Vs. High Court of Judicature at Allahabad [(2016) 14 SCC 251]**, Mr. Joshi submitted that time-barred contempt petition cannot result into any action against Respondent.

9. Mr. Joshi further submitted that present contempt petition is an attempt to misuse contempt jurisdiction as a weapon for executing an order for which appropriate procedure is provided under law. He relied upon **R.N. Dey & Ors. Vs. Bhagyabati Pramanik & Ors. [(2000) 4 SCC 400]** in support of this submission. He relied upon **Bharat Sanchar Nigam Limited Vs. Telephone Cables Limited [(2010) 5 SCC 213]** to contend that reserving of the liberty should always be subject to a remedy being available in law and the Hon'ble Supreme Court in the said judgment has held that Courts should take care to ensure that liberty is reserved only where it is necessary.

10. Mr. Joshi submitted that the present case stands on a further footing, in as much as, earlier contempt petition is disposed of without any action taken against the Respondents and no liberty is reserved and therefore, the present contempt petition must be held as barred and not maintainable. He further submitted that this second contempt petition is nothing but an effort to arm-twist the Respondent No. 2, which must be discouraged.

11. Mr. Joshi further submitted that Respondent No.1 Company has paid large amounts, specifically stated in paragraph No.6(c) of affidavit-in-reply and this is not a case of non compliance.

12. Mr. Deshmukh, learned counsel for the Petitioner submitted in rejoinder that contempt is a matter primarily between the Court and the Contemnor and the Court has to take into consideration attending circumstances. He submitted that if the conduct of the Contemnor is such that it hampers justice delivery system or lowers

the dignity of the Courts then the Courts are expected to take a stringent view. In support, he relied upon judgment of **Kalyaneshwari Vs. Union of India & Ors.** [(2012) 12 SCC 599]. He further submitted that in **Rajaram Woman Masurkar Vs. Lokmanya Shikshan Prasarak Mandal, Vadavali & Ors.** [2007 SCC OnLine Bom 649], the Division Bench of this Court was considering whether this Court has power to recall its own order and restore the main contempt petition which is dismissed for non appearance. He submitted that the Division Bench of this Court held that this Court may evolve and adopt a procedure for initiating and decision in contempt Court and such procedure may be summary and not strictly controlled by laws of Criminal Procedure Code, 1973 and/or for that matter of Civil Procedure Code, 1908. He submitted that therefore the provisions of Order 23 of the Civil Procedure Code, 1908 will also not strictly apply and therefore even if liberty is not granted, the present contempt petition can be entertained.

13. Relying on **Bank of Baroda Vs. Sadruddin Hasan Daya & Anr.** [(2004) 1 SCC 360], Mr. Deshmukh submitted that the fact that the Petitioner can execute the order can have no bearing on contempt committed by the Respondents. Relying on Full Bench judgment of this Court in **Bapusaheb Balasaheb Patil & Ors. Vs. The State of Maharashtra & Ors.** [AIR 1975 Bombay 143], he submitted that Competent Authority under MRC Act is a Court and cognizance of non-compliance with its order must be taken. He also relied upon judgment and order dated 19.12.2009 passed in Notice of Motion No. 1099 of 2009 in the case of **Smt. Meera R. Khanna Vs. Arun Kumar**

Ohri, (confirmed in Appeal No. 116 of 2010 by the Division Bench of this Court recently on 08.12.2025) in support of said contention.

14. Learned counsel Mr. Joshi, then urged that the decision in an authority has to be read for what the judgment actually decides and not for what logically follows from the observation. It is submitted that judgment in the case of **Rajaram Woman Masurkar (supra)** should not be applied for logical derivation suggested by learned counsel for the Petitioner. He relied upon the judgment in the case of **Union of India & Ors. Vs. Dhanwanti Devi & Ors. [(1996) 6 SCC 44]** in support of his submission. He further submitted that the burden of proof in contempt petition, upon the Petitioner, is akin to criminal proceedings and if willful disobedience is not proved then the contempt action cannot be sustained.

15. I have considered rival submissions and perused the record.

16. The Full Bench of this Court in **Bapusaheb Balasaheb Patil (Supra)**, was considering whether the Officer on Special Duty appointed by the Government can be considered as Court within the meaning of the said Act and it has been held that the necessary criteria are whether the authority is given power to give a definite judgment or a decision which has finality to bind the parties and secondly the appointment as well as source of its power must be judicial power coming from statute itself. Considering the provisions of MRC Act, the Competent Authority satisfies the said criteria.

17. In the case of **Smt. Meera R. Khanna Vs. Arun Kumar Ohri (supra)**, learned Single Judge of this Court has held that the

jurisdiction of the Competent Authority under MRC Act to pass final order of eviction and compensation, satisfies the test laid down by the Hon'ble Supreme Court in **Brijnandan Sinha Vs. Jyoti Narain (AIR 1956 SC 66)** and therefore the said authority is Court.

18. Therefore, in my opinion, this Court can definitely take cognizance of contempt of the order of Competent Authority under MRC Act being sub-ordinate Court under Section 10 of the Contempt of Courts Act.

19. There is also no dispute about the proposition that contempt is a matter between the Court and the contemnor and the fact that the Petitioner can execute the concerned order/decreed, it will have no bearing on the contemptuous action. But it is equally settled that the Court has to take into consideration the conduct and behavior of the parties.

20. Perusal of the earlier orders show that though Respondents were directed to appear before the Court and Respondent No.2 was required to file bail bond, ultimately before the contempt petition could be heard on merits, the Petitioner relying on a private agreement with Respondents about payment of Rs.45,00,000/- within specified time, made a request to withdraw the contempt petition. It is settled position of law that the contempt petition cannot be withdraw by mere wish of the Petitioner. If such position is accepted then it will be a tool in the hands of the Petitioner to coerce and pressurize the Respondent party for a favourable action or agreement. Such situation can not be countenanced. Therefore, there

is no merit in the submission of the Petitioner that since he believed under private agreement with Respondents that he will receive certain money, he sought its withdrawal. The final order dated 23.03.2018 passed in earlier Contempt Petition No.13 of 2017 reads as under:

“ Heard Mr. Deshmukh, learned Counsel for the petitioner and Ms. Dhanani, learned Counsel for the respondents.

2. Mr. Deshmukh, on instructions seeks permission to withdraw this Petition. Ms. Dhanani invited my attention to the order dated 12th September, 2017. Subject to furnishing Bail bond in the sum of Rs. 1,00,000/- and one surety in the like amount to the satisfaction of the Registrar Judicial, respondent No.2 was released on bail. She, therefore, submitted that the bail bond and surety may be discharged. Mr. Deshmukh has no objection.

3. In view thereof, on the motion made by Mr. Deshmukh, Petition is allowed to be withdrawn and as such disposed of. The bail bond as also surety given by respondent No.2 stand discharged. Order accordingly.”

21. It is therefore clear that this Court disposed of the contempt petition and the bail bond as also surety given by Respondent No.2 was discharged. It is the contention of the Petitioner that after this order, Respondent No.2 did not honour the alleged agreement to pay Rs.45,00,000/- within stipulated time.

22. It is important to note that whether there was really an agreement by the director of Respondent No.1 Company to pay Rs.45,00,000/- or any other amount within stipulated time is a disputed question of fact, which cannot be decided in the contempt

petition. Email exchanges of January 2020 produced on record indicates that settlement agreement was not finalized and was merely at draft stage. Therefore there is nothing adjudicated about such agreement. In such circumstances, the Petitioner cannot be permitted to contend that because it was promised payment of money within stipulated time, he did not press the contempt petition. If such argument is accepted then it will amount to accepting that the contempt jurisdiction of this Court can be used as a tool to coerce and pressurize the opposite party into certain actions or agreements. Such situation cannot be countenanced. Therefore, the order dated 23.03.2018 has to be interpreted as disposal of the contempt petition because this Court was satisfied that the case of the contempt was not made out against Respondents. Having said that, in my view, in the facts and circumstances, 'second contempt petition' for the same alleged breach and willful disobedience of the order dated 15.09.2010, does not require further consideration.

23. So far as the aspect of limitation is concerned, admittedly, the order dated 15.09.2010 passed by Additional Commissioner, Konkan Division attained finality on 08.08.2016 when the Hon'ble Supreme Court dismissed the said SLP. Thereafter, the first contempt petition was filed which was disposed of on 23.03.2018. Yet, the present contempt petition was filed on 22.11.2019 i.e. after a period of 1 year and 8 months from disposal of first contempt petition and after period of 3 years and 3 months from dismissal of said SLP. The only explanation of the Petitioner for this delay is that the Petitioner was under impression that leave/permission is necessary from the NCLT

for filing the contempt petition. Admittedly, NCLT, Delhi vide its order dated 23.09.2019 has held that there is no merit in the application seeking such permission and the Petitioner was held at liberty to file its claim before the Liquidator in accordance with law. Admittedly, this order was challenged in NCLAT where Appellate Tribunal was not inclined to interfere and therefore, the Appellant withdrew the appeal to enable it to take appropriate steps to initiate the contempt proceedings. It was clarified that it is for the Petitioner to decide whether to file or not the contempt petition. It was also clarified that no liberty is required.

24. In such circumstances, it cannot be said that pendency of the leave application before NCLT/NCLAT would extend the limitation. Section 14 of the Limitation Act will not be attracted to the facts and circumstances narrated above, because ex-facie, neither NCLT nor NCLAT are the Courts where contempt petition can be initiated, where the Petitioner can be said to be bona-fide prosecuting remedy without jurisdiction. Ignorance of law is not justifiable reason. Therefore, assuming that the Petitioner could file the present second contempt petition after disposal of the first contempt petition on merits, the present contempt petition is filed beyond period of one year from first order on 23.03.2018 and much beyond one year from 08.08.2016 when the Hon'ble Supreme Court dismissed the said SLP.

25. One more aspect requires to be noted. Admittedly, the Petitioner has not filed any claim before the liquidator in accordance with law, despite liberty granted by NCLT under order dated 23.09.2019. In my view, considering the fact that the Petitioner

requested for withdrawal of earlier contempt petition on the alleged private agreement (out of Court) for payment of money, itself shows that the Petitioner is using the contempt jurisdiction of this Court as a tool to pressurize the Respondents, when the petitioner can adopt appropriate legal proceedings for recovery of compensation.

26. Having held as above, there is no need to consider the submission that if Respondent No.1 Company is having paid up share capital above rupees one crore then the provisions of MRC Act shall not apply under exemption under Section 3(1)(b) of the MRC Act.

27. In the aforesaid facts and circumstances, without expressing any opinion as to whether provisions of Order 23 of the CPC would strictly apply to contempt proceedings (about effect of not reserving liberty in first contempt petition on second contempt petition alleging same disobedience or breach), suffice it to observe that in the peculiar facts of this case, I am not inclined to exercise the contempt jurisdiction.

28. The contempt petition is accordingly dismissed. No order as to costs.

29. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)