

IN THE SUPREME COURT OF INDIA

INHERENT JURISDICTION

CONTEMPT PETITION (CIVIL) NOS. 572-573 OF 2020

IN

MISCELLANEOUS APPLICATION NOS. 968-969 OF 2019

IN

SPECIAL LEAVE PETITION (CIVIL) NOS. 29710-29711 OF 2018

SAU MANISHA ANIL MOHANKA & ORS.

Petitioner(s)

VERSUS

MANOJ KISANLAL AGRAWAL & ORS.

Respondent(s)

O R D E R

Heard learned counsel for the applicants as well as learned counsel appearing for the respondents.

This contempt petition has been filed for initiating proceedings for contempt for violation of order dated 10.05.2019 passed in Miscellaneous Application Nos. 968-969 of 2019 in SLP (C)Nos. 29710-29711 of 2018.

The civil revision proceedings which were filed by the applicants were allowed by the High Court by order dated 27.07.2018 and the High Court, subject to defendant's filing an undertaking and clearing arrears of rent within three weeks, passed an order that eviction decree shall not be executed for a period of twelve weeks from the date of the order. Challenging the said order, the special leave petition was filed by the respondent in this Court which special leave petition was dismissed on 28.11.2018 by the

following order:

"Heard.

The special leave petitions are dismissed.

However, the petitioner is granted six months' time from today to vacate the suit premises in question subject to filing an usual undertaking to this effect before the Registry of this Court within four weeks and payment of entire arrears of rent till date; as also payment of further rent of six months in advance by way of drafts, for use and occupation to the respondents within three weeks.

Pending applications, if any, also stand disposed of."

The applicants submit that in spite of order dated 28.11.2018, the respondents had not handed over the possession and had filed an application for extension of time. This Court, on 10.05.2019, granted three months' further time to the respondents to comply with order dated 28.11.2018 subject to submitting a fresh undertaking. Again, the time granted by this Court lapsed but possession was not handed over.

The respondents filed a review petition in which learned Chamber Judge, on 09.09.2020, passed the following order:

"I.A. No. 158014/2019 is allowed. However, the allegations contained therein against the Advocate on Record are eschewed.

The new counsel on record shall positively report to this Court on the next date of hearing whether the tenanted premises has been vacated or not.

An affidavit in this regard shall be filed within four weeks.

Post the matter after four weeks."

No affidavit was filed by the respondents as contemplated in the order dated 09.09.2020. Thereafter, these contempt proceedings were filed. This Court issued notice on 14.10.2020 by the following order:

“Issue notice, returnable in six weeks.

In event, the premises in question is vacated and possession is handed over, the respondents need not appear in-person, failing which respondents shall appear in-person.”

The matter was listed and heard by this Court on 03.12.2020 on which date also, the respondents had not vacated the premises and the counsel appearing for the respondents ultimately submitted that he should be given some further time to vacate the premises and hand over the possession. Recording the said statement of the counsel for the respondents, the matter was fixed for today.

Today, when the case was called out, the counsel appearing for the applicants has submitted that possession of the premises has been handed over on 10.12.2020. It is submitted that, however, payment towards arrears/ mesne profit etc. have not been paid but for that, the applicants have initiated proceedings for recovery of the amount which is pending consideration. Learned counsel for the respondents submits that the respondents have handed over the possession on 10.12.2020 and the contempt proceedings be closed. It was submitted that due to the fact that the

respondents themselves were negotiating with the petitioners, possession could not be handed over at the relevant time.

After hearing learned counsel for the parties, we are of the view that the present is a case where the respondents have violated the undertaking given to the Court and in spite of the extension granted to the respondents for handing over the possession, possession was not handed over even after the expiry of time granted by this Court and even after obtaining extension of time. The counsel for the respondents prayed for further time on 03.12.2020 and only after hearing on 03.12.2020, possession was handed over on 10.12.2020.

We are of the view that the conduct of the respondents was in breach of the undertaking given to this Court. Although looking to the fact that possession was handed over on 10.12.2020, we are of the view that this is not a case for punishing the respondents for contempt. But, in the facts of the present case, we are of the view that the respondents be saddled with costs of Rs.1 lakh to be paid to the Legal Services Authority, Kolhapur, within a period of four weeks from today.

We, therefore, close the contempt proceedings.

This, however, is without prejudice to the right of

the petitioner to pursue the application filed for releasing of the arrears of rent/ mesne profit.

....., J.
[ASHOK BHUSHAN]

....., J.
[R. SUBHASH REDDY]

....., J.
[M.R. SHAH]

New Delhi;
December 14, 2020.

ITEM NO.27

Court 7 (Video Conferencing)

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CONMT.PET.(C) No. 572-573/2020 in
M.A. Nos. 968-969/2019 in
SLP(C) No. 29710-29711/2018

SAU MANISHA ANIL MOHANKA & ORS.

Petitioner(s)

VERSUS

MANOJ KISANLAL AGRAWAL & ORS.

Respondent(s)

(With IA No. 84686/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 24786/2020 - EXEMPTION FROM FILING PAPER BOOKS and IA No. 126302/2020 - EXEMPTION FROM PERSONAL APPEARANCE)

Date : 14-12-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE R. SUBHASH REDDY
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s)

Mr. Sudhanshu S. Choudhari, AOR

For Respondent(s)

Dr. Ram Sankar, Adv.
Ms. K. Vaijyanthi, Adv.
Mr. S. Ram Subramanian, Adv.
Mr. Amit Arora, Adv.
Mohd. Asif Ali, Adv.
Mr. Ashish Chaubey, Adv.
Ms. G. Chitrakala, Adv.
Ms. Richa Pandey, Adv.
Mr. Yusuf, AOR.

UPON hearing the counsel the Court made the following
O R D E R

The contempt proceedings are closed in terms of the
signed order.

Pending applications stand disposed of.

(NIDHI AHUJA)
AR-cum-PS

(RENU KAPOOR)
BRANCH OFFICER

[Signed order is placed on the file.]