

(2025) 04 CAL CK 0919

In the Calcutta High Court, Original Side

Case No : CC No. 57 Of 2012 IA No.GA No. 4, 6, Of 2025

Satish Vishanji Futnani

APPELLANT

Vs

Arul Madhusudhan Futnani And Ors

RESPONDENT

Date of Decision : 10-04-2025

Acts Referred:

Constitution of India, 1950 — Article 215

Code of Criminal Procedure, 1973 — Section 389, 389(1), 389(3)

Contempt of Courts Act, 1971 — Section 2(a), 2(c), 11, 12, 13, 15, 19, 20

Citation : (2025) 04 CAL CK 0919

Hon'ble Judges : Debangsu Basak, J;Md. Shabbar Rashidi, J

Bench : Division Bench

Advocate : Ranjan Bachawat, Prabhakar Chowdhury, Satyaki Mukherjee, Mini Agarwal, TarunJyotiTewari, Venkatesh Mohanraj, Sandip Kumar De, Abhijit Sarkar, Manjit Singh, V. T. Narendran, Soujanya Pattanayak

Final Decision : Dismissed

Judgement

Debangsu Basak, J

1. In this contempt rule, petitioner/informant alleges that the respondents violated the order dated June 13, 2004 passed in CC/113/2004 and CC/114/2004.

2. Co-ordinate Bench, by an order dated June 2, 2012 called upon the respondents to show cause as to why criminal contempt proceeding should not be initiated as against them. In response thereto, the respondents filed affidavits termed as 'representations.'

3. The representations of the respondents, in the form of affidavits, were considered and by a judgment and order dated August 1, 2024, we issued a criminal contempt Rule as against the respondents. Such Rule was made returnable on August 20, 2024.

4. A Special Leave Petition (SLP) was carried against the judgment and order

dated August 1, 2024 which was dismissed as withdrawn on August 14, 2024.

5. The order dated August 14, 2024 passed by the Hon'ble Supreme Court in the Special Leave Petition directed against the judgment and order dated August 1, 2024 is as follows:

"Mr. C. A. Sundaram, learned senior counsel appearing for the petitioner, upon instructions, seeks permission to withdraw this petition leaving it open for the petitioner to raise all contentions before the High Court as are available to him under law.

Permission granted.

The special leave petition is dismissed as withdrawn with liberty as prayed."

6. Subsequent thereto, a number of applications were filed by the respondent No.1 praying for several reliefs. One of the applications was for recusal of this Court from hearing the contempt Rule, being IA NO. GA/5/2024.

7. Such application being IA No.GA/5/2024 was disposed of by a judgment and order dated January 21, 2025. We declined to accept such request of the respondent No. 1.

8. Special Leave Petition carried against the judgment and order dated January 21, 2025 was withdrawn at the instance of the respondent No.1.

9. Subsequent thereto, few more applications were filed by the respondent No.1 including one which was disposed of on April 8, 2025.

10. The respondents filed affidavits in the contempt Rule subsequent to our judgment and order dated August 1, 2024. That apart, a number of applications were filed by the respondent No.1 from time to time.

11. Contempt Rule was heard and hearing thereof was concluded on March 25, 2025. Even thereafter another application was filed by the respondent No. 1.

12. On April 8, 2025 while disposing of the last of the applications by the respondent No.1, we directed all the respondents to be personally present in Court today for the purpose of the disposal of the contempt Rule.

13. Learned counsels appearing for the respondents identifies their respective clients to be present in Court physically today.

14. The contentions of the petitioner/informant are as follows:

i.) Respondents interfered with the possession of the Joint Receivers over diverse immovable properties and executed a sale deed dated January 27, 2012 in violation of the subsisting orders.

ii.) Respondents, despite several orders, continued to repeatedly interfere with the possession of the Joint Receivers and sold immovable properties.

iii.) From time to time contempt Rules were issued as against the respondents. The respondent No.1 was found guilty of contempt in CC/113/2004 by an order dated April 29, 2005.

iv.) Joint Receivers were appointed by an order dated January 19, 2004 passed in Suit No.781 of 1983. Decree passed in such suit was challenged before the Hon'ble Supreme Court. No order of stay was passed by the Hon'ble Supreme Court. Further orders of injunction were passed with regard to the immovable properties concerned on June 10, 2004 in CC/113/2004 and CC/114/2004. Order dated June 17, 2004 was passed in CC/113/2004 and CC/114/2004. Despite such orders, the respondents continued to violate such orders of the Court.

v.) Joint Receivers took possession of the immovable properties concerned and the same would, inter alia, appear from the report of the Joint Receivers filed in Court.

vi.) Orders were passed from time to time to protect the possession of the Joint Receivers, such as, orders dated February 8, 2005, May 11, 2005 and July 6, 2005.

vii.) All the respondents were aware of the orders passed from time to time in CC/113/2004 and CC/114/2004. Despite such knowledge, the respondents did not refrain themselves from the act of contempt.

viii.) Receivers being appointed by the High Court, the properties in question are custodial, therefore, interference with the possession of the Receivers is contemptuous. In support of such contention reliance is placed on (2000) 8 SCC 512 (Bank of India vs. Vijay Transport & Ors.)

ix.) Sale claimed to be effected is under-valued.

x.) The respondents are guilty of contempt of Court as defined under Section 2(a) and (c) of the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India.

xi.) Supreme Court recognized the power of the Court to initiate contempt proceedings suo motu in absence of leave being given by the learned Advocate-General. In support of such contention reliance is placed on (1988) 3 SCC 167 (P.N. Duda vs. P. Shiv Shankar & Ors.).

xii.) Respondents as contemnors cannot enjoy the usufruct of the act of contempt. Reliance is placed in this regard on (1996) 4 SCC 622 (Delhi Development Authority vs. Skipper Construction Co.(P). Ltd. & Anr.).

xiii.) Respondents are guilty of repeated violations of the orders of the High Court, disturbing the possession of the Receivers and interfering with the administration of justice.

xiv.) Respondents adopted dilatory tactics to stall the hearing of CC/57/2012 by filing repeated applications.

xv.) Respondents attempted to interfere and pressurise the Hon'ble Judges, inter alia, by filing application for recusal making unfounded allegation of bias. These, by themselves, are aggravating instance of acts of contempt.

xvi.) Conditional undertaking offered by the respondent No.1 on July 12, 2004, March 18, 2025 and March 22, 2025 are of no consequence.

xvii.) Apology offered in the undertaking dated March 18, 2025 is not genuine made belatedly and is premised on certain contentions which should not be accepted.

xviii.) The respondent Nos.3 and 4 are guilty of aiding and abating the respondent No.1 in the acts of contempt.

15. It is contended on behalf of the petitioner/informant that the defence sought to be raised by the respondents should not be accepted since:

i.) Learned Judge who passed the initial order, cannot be said to be acting without jurisdiction. In any event, if an order is passed without jurisdiction until the same is set aside, the same remains valid between the parties. In support of such contention, reliance is placed on (1997) 3 SCC 443 (Tayabhai M. Bagasarwalla&Anr. vs. Hind Rubber Industries Pvt. Ltd. & Ors.), (2016) 9 SCC 44 (Anita International vs. Tungabadra Sugar Works MazdoorSangh&Ors.) and (2017) 1 SCC 622 (Robust Hotels Pvt. Ltd. & Ors. vs. EIH Ltd. & Ors.).

ii.) No appeal was preferred against the initial order dated June 17, 2004 and, therefore, it cannot be said that such order was passed without jurisdiction.

iii.) In any event, objections with regard to the jurisdiction of the learned Judge to pass order dated June 17, 2004 cannot be question as the learned Judge possessed requisite determination to take up such matters for contempt of the order dated April 8, 1993 passed by a learned Judge who retired. In this regard reliance is placed in the cause list of such date.

iv.) No interim order stood lapsed and in any event, Receivers are in possession. Interference with the possession of the Receiver are acts of contempt and in support of such contention reliance is placed on 1994 (2) CLJ 278 (Howrah Trading Co. Vs. Smt. PramilaJalan&Ors.) and AIR 1962 SC 21 (SethHiralalPatni vs. SethLoonkaranSethi&Ors.) as well as 1963 SCC Online Cal 116 (Siemens Engineering & Manufacturing Co. of India vs. S. P.Majoo&Ors..).

v.) The property in question falls within the scope and ambit of the suit and contention to the contrary are without any basis.

vi.) The scheduled property cannot be treated as an individual property of the respondent No.1 since the property was a joint property of FutnaniPoultry Farms wherein the mother of the respondent No.1 was one of the partners.

16. We took the assistance of the learned Advocate-General in the present contempt Rule.

17. It is submitted by the learned Advocate-General that, the Joint Receivers were dispossessed as will appear from the materials placed on record. It is contended that the disobedience coupled with defiance including dispossessing the Joint Receivers tantamounts to interference with the custody of the Court, and it sounds in contempt and is governed under the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India.

18. Relying on Sections 11, 12, 13 and 20 of the Contempt of Courts Act, 1971, it is submitted by the learned Advocate-General that, the Court possessed requisite jurisdiction to pass necessary orders in the contempt petition. It is submitted that the Majesty of the Court should be upheld. The conduct of none of the respondents should be accepted.

19. It is contended by learned Advocate General that, the apologies offered by the respondents should not be accepted as they are ill conceived. Reliance is also placed on 1963 SCC Online 116 (Siemens Engineering & Manufacturing Co. India Ltd. Vs. S.P.Majoo&Ors.), (1994) 1 Calcutta High Court Notes 291 (In re: Mukunda Chandra Halder) and (2000) 8 SCC 512 (Bank of India Vs. Vijay Transport & Ors.).

20. On behalf of the respondent No. 1, a list of dates is referred to. It is contended that, the subject property, was self-acquired and that inclusion thereof in the Terms of Settlement was fraudulent. Moreover, the subject properties were never part of original suit schedule making the contempt untenable. Clause 32 of the Terms of Settlement bars any contempt proceedings concerning any prior transaction relating to the property. The petitioner/informant acquiesced in the acts, complained of. Contempt petition was filed with mala fide intention to harass the respondent No. 1 and manipulate judicial proceedings.

21. It is contended on behalf of the respondent No. 1 that, the respondent No. 1 purged himself from the acts of contempt complained of. Respondent No. 1, complied with the undertaking and handed over possession to the Joint Receivers. Respondent No. 1 filed individual affidavit on March 20, 2025 undertaking to cancel the subject sale deed. Respondent No. 1 jointly with the other respondents submitted a letter to the Sub Registrar seeking return and withdrawal of the document as the document was pending registration, from the registration office. Such document was returned by the concerned Sub Registrar. Respondent No. 1 filed a further affidavit affirmed on March 22, 2025, which establishes that the Act of Contempt stands fully purged.

22. It is contended on behalf of the respondent No. 1 that the contempt proceedings cannot be sustained after voluntary compliance and purging of the acts of contempt. Reliance in support of the contention of the respondent No. 1 is placed on (2000) 4 SCC 400 (R.N.Dey&Ors. Vs. BhagyabatiPramanik&Ors.), (2002) 1 SCC 766 (Suresh Chandra PoddarVs. Dhani Ram &Ors.).

23. It is contended on behalf of the respondent No. 1 that once contemnor purges himself from the acts of contempt, proceedings should not continue.

Concept of interference or Custodial Legislature ceases to operate post surrender. Registration of the document as a pending document undermines the contempt allegations. Reliance in this regard is placed on (2006) 1 Law Weekly 629 (M/s. Jamals Vs. P. Syamaia).

24. It is contended on behalf of the respondent No. 1 that, the contempt petition was filed unilaterally by one of the Joint Receivers and the same is in violation of the Terms of Settlement. Petitioner/informant is guilty of deliberate suppression of jurisdictional facts. Reliance is placed on (2012) 4 SCC 307 (Kanwar Singh Saini V. High Court of Delhi) for the proposition that interim order merges with the final order. Reliance is also placed on (2004) 8 SCC 706 (Balvant N. Viswamitra Vs. Yadav Sadashiv Mule), (2003) 6 SCC 230 (Dwarka Prasad Agarwal Vs. B.D. Agarwal), (1955) 1 SCR 117 (Kiran Singh Vs. Chaman Paswan), (2001) 3 SCC 739 (Mrityunjay Das & Anr. Vs. Syed Hasibur Rahman & Ors.).

25. It is contended that jurisdictional defect was subsequently acknowledged by the learned Judge as will appear from orders dated June 8, 2005 and September 19, 2007. Reliance in this regard is placed on (2013) 10 SCC 136 (Jagmittar Sain Bhagat Vs. Director, Health Services, Haryana & Ors.), (2022) 1 SCC 101 (Dr. U.N. Bora Ex. Ch. Vs. Assam Roller Flourm).

26. Absence of mandatory sanction from the Advocate General rendering the contempt petition as not maintainable is also taken. Legal mandate under Section 15 of the Contempt of Courts Act, 1971 is referred to. Reliance is also placed on (2005) 1 SCC 254 (Bal Thackrey Vs. Harish Pimpalkhute & Ors.).

27. It is contended on behalf of the respondent No. 1 that the contempt must be apparent on the face of the record as there is no scope for interpretation or roving enquiry. Reliance is also placed on (2014) 14 SCC 446 (T.C. Gupta Vs. Bimal Kumar Dutta & Ors.), (2011) 13 SCC 393 (Anup Bhushan Vohra Vs. Registrar General, High Court of Judicature of Calcutta), (2008) 14 SCC 392 (Sushila Raje Holkar Vs. Anil Kak), (2008) 16 SCC 592 (Three Cheers Entertainment Private Limited & Ors. Vs. CESC Ltd.).

28. It is contended on behalf of the respondent No. 1 that the petitioner/informant is guilty of forum shopping and abuse of process. Contempt petition filed is pending the Supreme Court Proceedings. The property was unilaterally included in the Terms of Settlement. There are jurisdictional and procedural defects in the initiation of the proceedings. Reliance in this regard is also placed in (2012) 4 SCC 307 (Kanwar Singh Saini Vs. High Court of Delhi).

29. It is contended that the learned Judge passing an order in CC No. 113 and 114 of 2004 did not possess requisite jurisdiction. It is also contended that, the petitioner/informant deliberately reframed the contempt as criminal contempt to circumvent prior judicial orders. Reliance in this regard is also placed on (2021) 6 SCC 258 (P. Mohanraj & Ors. Vs. Shah Brothers Ispat Pvt. Ltd.), (2024) 3 SCC 1 (State of Uttar Pradesh & Ors. Vs. Association of Retired Supreme Court & High Court Judges at Allahabad & Ors.).

30. It is contended on behalf of the respondent No. 1 that, the order dated June 17, 2004 is being misused. The petitioner/informant is guilty of selective invocation of contempt proceedings. On the point of lack of jurisdiction reliance is placed on (2008) 16 SCC 592 (Three Cheers Entertainment Private Limited Vs. CESC Limited).

31. The Notes of argument submitted on behalf of the respondent No. 1 contains materials which are repetitive in nature and does not address the main issues involved. We therefore, do not refer to the entirety of the Notes on argument as submitted on behalf of the respondent No. 1 since it is voluminous and will unnecessarily consume valuable time of the Court which may be profitably utilized in disposal of other pending matters.

32. On behalf the respondent Nos. 2,3 and 4, it is contended that, the Court should show magnanimity in accepting the apology tendered and that the contempt proceedings should be dropped.

33. The violation of an order dated June 17, 2004 by which Joint Receivers were appointed over the subject property is the subject matter of the present Rule. As on date, our attention is not drawn to any order which upsets the order of appointment of Joint Receivers as done on June 17, 2004. Joint Receivers were appointed by the High Court over immoveable properties, on June 17, 2004. The Joint Receivers took possession of such property as will appear from the report dated June 20, 2004 submitted by the Joint Receivers. Possession was taken on June 20, 2004.

34. There are documents to establish that, the respondents interfered with the possession of the Joint Receivers. A deed purporting to transfer title of the immovable property was presented for registration with the Registration Authority. Apparently the registration did not go through. Actual physical possession of the Joint Receivers were interfered with by all the respondents. Possession of the Joint Receivers were restored by the respondents to the Joint Receivers pursuant to the order dated August 20, 2024 passed by this Court. Possession by the Joint Receivers were retaken on August 21, 2024.

35. Thereafter the Joint Receivers were not in possession for the period subsequent to January 27, 2012 when the sale deed was executed till August 21, 2024 when the respondents restored possession of the Joint Receivers pursuant to the order dated August 20, 2024. The respondents thereafter interfered with the possession of the Joint Receivers.

36. All the respondents knew of the order dated June 17, 2004. Respondent No. 1 was a party to four other contempt petitions being CC 113 of 2004, CC 14 of 2005, CC 23 of 2006 and CC 198 of 2006. Respondent No. 1 was represented by an advocate as will appear by the order dated March 20, 2006 and December 22, 2006 passed in such contempt petitions. Respondent No. 1 also admitted and acknowledged knowledge of the orders in affidavits filed by him. He filed an affidavit-in-opposition in CC 14 of 2005 where he admitted that the Joint

Receivers took possession. Respondent No. 2 to 4 were parties in two contempt petitions being CC 23 of 2006 and CC 198 of 2006. They were also represented on by their advocates when order dated March 20, 2006 was passed. Despite such order, they purported to purchase the property on January 27, 2012.

37. It is trite law that once a Receiver is appointed by the Court unless such Court discharges the Receiver, the property continues to remain in the custody of the Court through the Receiver appointed. In this regard reference may be made to Bank of India (supra).

38. From such conduct of the respondents it can be safely held that, the respondents knew of the possession of the Joint Receivers order dated June 17, 2004 appointing the Joint Receivers and the orders passed subsequently as noted here. Despite the same, they acted willfully and in contemptuous violation of the order dated 17, 2004 in not only disturbing the possession of the Joint Receivers but also purporting to enter into a sale deed dated January 27, 2012. They purported to present such deed of sale dated January 27, 2012 for registration. The sale deed is yet to be returned to Court or appropriately dealt with so as to inspire confidence that the deed would not be acted upon.

39. The contention of the respondent No. 1 that, the property was not a subject matter of the suit or was fraudulently included or that the Court did not possess requisite jurisdiction to pass such orders, cannot be accepted. Order dated June 17, 2004 continues to subsist till date. All the respondents were aware of the existence of such order dated June 17, 2004. They took no steps to challenge the order dated June 17, 2004 on the ground of lack of jurisdiction or otherwise. The order dated June 17, 2004 was not set aside by any Court.

40. Order dated June 17, 2004 was passed in a suit which is pending before this Hon'ble Court. We are not in a position to return a finding that this Hon'ble Court lacks inherent jurisdiction in passing the order dated June 17, 2004. Therefore, we are not in a position to arrive at finding that the order dated June 17, 2004 suffers from inherent nullity, void ab initio and, therefore, is unenforceable.

41. The contention that, the property involved is self-acquired and that inclusion thereof in the Terms of Settlement was fraudulent cannot be decided in this proceeding. So also the contention that the immoveable property was not included in the original suit schedule or that Clause 32 of the Terms of Settlement bars any contempt proceedings, on the parity of the same reasoning.

42. Suit is pending before this Court. In the suit the order dated June 17, 2004 was passed and subsists till date appointing the Joint Receivers.

43. The claim that the respondents purged themselves of the act of contempt complained of is also hollow. Affidavits filed on their behalf subsequent to the issuance of the contempt Rule cannot be construed to be an unconditional apology for the violation. Even during course of submissions, it was not accepted by the respondents that there were any violations. The original deed was not

produced before the Court even today. Therefore, the claim that the respondents purged themselves from the act of contempt voluntarily cannot be accepted.

44. Petitioner/informant filed the present contempt petition, where a Co-ordinate Bench by an order dated July 2, 2012 decided to invoke the contempt jurisdiction suomotu. By such order, the respondents were given an opportunity to show cause as to why criminal contempt proceeding should not be drawn up against them. Such response of the respondents were considered and the Court decided to issue contempt rule by the judgment and order dated August 1, 2024. Special Leave Petition directed against the order dated August 1, 2024 was dismissed as withdrawn on August 14, 2024. The acts of contempt as noted above are egregious and if allowed to remain unattended will lower the dignity and majesty of the Court and will send a wrong signal to the members of the society.

45. It is for petitions/informant to bring to the notice of the Court any act of contempt. The respondents are guilty of act of contempt complained of. Therefore, the contention that the Joint Receivers did not apply, is immaterial.

46. Howrah Trading Company (supra) and Seth HiralalPatni (supra) are of the view that the Receiver continued to remain in possession till such time an order for its discharge is passed. There is no order discharging the Joint Receivers.

47. Siemens Engineering and Manufacturing Company of India Limited (supra) is of the view, that interference with or obstruction to a Receiver appointed by the Court is an Act of Contempt.

48. In the facts and circumstances of the present case the respondents violated not only the order dated June 17, 2004 by interfering with their possession but also orders of injunction. In fact, a learned Single Judge held the respondent No.1 guilty of contempt by an order dated April 29, 2005 passed in CC 113 of 2004. Appeal against the order dated April 29, 2005 was withdrawn by the respondent No.1.

49. There is a finding that, the respondent No.1 violated the orders of Court by a learned Single Judge in CC 113 of 2004 on April 29, 2005. Even today, we find that all the respondents violated the joint possession of the Receivers and violated subsisting orders of injunction restraining them either from interfering or creating third party rights in respect of immovable properties concerned.

50. We, therefore, hold that each of the respondents of guilty of Act of Contempt and is liable to be proceeded against under the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India.

51. After finding the respondents guilty of contempt, we invited the learned counsel for the respective parties to address us on the quantum of sentences to be imposed.

52. Learned senior advocate appearing for the respondent No.1 submits that, his client purged himself of the act of contempt and, therefore, the same should be

taken into consideration and that, only a fine be imposed.

53. Learned senior advocate appearing for the respondent Nos.2, 3 and 4 submits that, his clients purged themselves from the act of contempt. He draws attention of the court to section 19 of the Contempt of Courts Act as also section 389 of the Criminal Procedure Code. He submits that, since the maximum sentence a court can impose under the Contempt of Courts Act, 1971 is six months, and since such order is appealable under section 19 of the Act of 1971 reading such provisions with section 389 of the Criminal Procedure Code, 1973, the court should suspend the sentence imposed to allow his client to file an appeal. In support of such contention, he relies upon (1995) 4 SCC 251 (Hari Nath Sharma vs. Jaipur Development Authority) as also (1995) 4 SCC 252 (Hari Nath Sharma (RAS) vs. Jaipur Development Authority).

54. Learned senior advocate appearing for the petitioner/informant submits that, the respondents did not purge themselves of the act of contempt fully till date. The original title deed is yet to be produced in court. He submits that, the respondents are guilty of repeated violations of the orders passed by the court. He submits that, the maximum sentences permitted by law should be imposed in the facts and circumstances of the present case.

55. We found each of the respondents to be guilty of acts of contempt complained of in the petition for contempt. That apart, the respondent No.1 was also found guilty of act of contempt by a learned single Bench on April 29, 2005.

56. The order dated April 29, 2005 finding the respondent No.1 as guilty of contempt of court, did not impose any sentence on the respondent No.1. After finding the respondent No.1 guilty of act of contempt, the learned single Bench directed the contemnor to report compliance failing which, the court would proceed to pass appropriate orders in respect of the contempt. Matter was directed to be listed on a subsequent date.

57. Court is informed that such contempt petition did not appear in the list subsequently.

58. We find from the records that, despite the direction dated April 29, 2005 passed by the learned single Bench, the respondents did not act in terms of such order. Respondents did not file any compliance report in CC no.113 of 2004 in terms of the order dated April 29, 2005 passed by the learned single Bench.

59. Contempt of Courts Act, 1971 permits us to impose a sentence of six months and a fine of Rs.2,000/-.

60. Considering the nature of the acts of contempt that the respondents are guilty of the repetitive in nature of their violation as also aggravating circumstances that the respondents indulged in subsequent to CC no.57 of 2012 being filed, we deem it appropriate to sentence the respondent Nos.1, 3 and 4 to suffer civil imprisonment for ten days. Respondent No.2 is a legal entity incorporated under the Companies Act, 1956 of which, the respondent Nos.3 and

4 are the persons in control. We also impose the maximum amount of fine of Rs.2,000/- to be paid by each of the respondents within a fortnight from date. In default, the respondent Nos.1, 3 and 4 will undergo further imprisonment of two days.

61. We need to consider Hari Nath Sharma-1 (supra) and Hari Nath Sharma-2 (supra) cited on behalf of respondent Nos.2, 3 and 4.

62. In Hari Nath Sharma-1, (supra) Supreme Court passed an interim order of stay of the order of conviction and sentence passed in contempt jurisdiction by the High Court. Hari Nath Sharma-2 (supra) is the final judgment and order passed in the Special Leave Petition directed against the order imposing sentence on the contemnor. In Hari Nath Sharma-2, (supra) Supreme Court found that, two views were possible to be taken in the facts and circumstances of that case and, therefore, held that the contemnor did not act in wilful disobedience of the order, to be hauled up in contempt.

63. Such situation does not operate in the facts and circumstances of the present case. There is a conclusive finding against the respondent No.1 being guilty of contempt by the High Court. Appeal carried by the respondent No.1 against such order was withdrawn by the respondent No.1. So we are not in a position to return a finding that two plausible views are permissible so far as the conduct of the respondent No.1. The respondent No.1 was found guilty of contempt in respect of order passed in the same suit.

64. So far as the respondent Nos.2 to 4 are concerned, they are aware of the orders passed by the court from time to time. Their acknowledgement and understanding of the orders appears from the affidavits filed by them in the contempt proceeding from time to time. Number of contempt petitions were initiated as against the respondent Nos.2, 3 and 4 also. At no stage and at no point of time till the date when they made over possession to the joint Receivers pursuant to the order of this court, did any of them make any effort to purge themselves of the act of contempt. As on date also, when we inquired from the respondents as to where the original deed which was presented for registration is lying, it is the submission on behalf of the respondents that, the deed is still lying with the registration office in order to obtain the refund of the stamp duty.

65. Whatever may be the reason for which, the deed is kept pending before the registration office, the fact remains that, as on date, it cannot be said that each of the respondents purged themselves of the act of contempt by making and delivering over the deed in court.

66. In such circumstances, we do not find that the scenario in Hari Nath Sharma-1 (supra) and Hari Nath Sharma-2 (supra) applies to the factual matrix of the present case for us to allow to suspend the sentence that we impose today.

67. We also noted the provisions of section 389 of the Criminal Procedure Code, 1973. We find that, sub-section (1) of section 389 gives the appeal court

discretion to suspend the sentence for reasons to be recorded. Sub-section (3) of section 389 also permits the court which convicts the accused, to release such accused on bail, unless there are special reasons for refusing the bail.

68. In the facts and circumstances of the present case as noted above, we do not find any reason to suspend the sentence imposed by us against any of the respondents. Each of them acted in wilful, contemptuous violation of the order of the Court, interfered with the possession of the Joint Receivers and did not express any remorse for their actions. So called apology affidavits were never unconditional. They claimed that they would act in a particular manner only if certain conditions were met. Even today they are not with original deed.

69. Sheriff will, therefore, take appropriate steps for execution and implementation of this order. Petitioner will deposit the subsistence allowance with the Sheriff of Calcutta forthwith.

70. Deputy Sheriff is permitted to communicate the gist of this order to the appropriate authority for compliance.

71. Joint Receives will take custody of the deed which is presently lying with the registration office forthwith. Registration office will make over the deed to the joint Receivers. In any event, the deed is declared to be null and void and cancelled.

72. There are two pending applications according to us, although, the respondent No.1 claims that there are three. Respondent No.1 withdrew all pending applications excepting IA GA No.4/2024, IA GA No.6/2024 and IA GA No.10/2025 by order dated March 20, 2025. Thereafter, on March 25, 2025, respondent No.1 claimed that, he intended to withdraw IA GA No.9/2025 and press IA GA No.10/2025.

73. IA GA No.10/2025 was dismissed on January 21, 2025. IA GA No.9/2025 was dismissed by an order dated March 25, 2025. IA GA No.4/2024 is an application seeking calling for records relating to the assignment to a learned Single Judge of CC/114/2004. We are concerned in this contempt petition with the violation of an order dated June 17, 2004. We find no substance in such application.

74. IA GA No.6/2024 is an application seeking relief of perjury against the petitioner/informant. We do not find anything on record to suggest that, the petitioner/informant is guilty of committing any perjury of Court. IA GA No.6/2024 is, therefore, dismissed.

75. Prayer for stay of operation of this order made on behalf of the respondent No.1 is considered and refused.