

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

CONMT.PET.(C) No. 277 OF 2012

IN

SPECIAL LEAVE PETITION (C) No. 26541 OF 2005

BOARD OF TRUSTEES OF PORT OF MUMBAI Petitioner(s)

VERSUS

NIKHIL N GUPTA & ANR Respondent(s)

J U D G M E N T

KURIAN, J.

1. Delay in filing the petition is condoned.
2. The contemnor - Nikhil N. Gupta is present in Court. It is seen that the respondents and other obstructionists have surrendered the vacant possession of the building in question to the petitioner.
3. On 23.04.2015, this Court had passed the following order :-

"Heard.

Mr Shyam Divan, learned senior counsel appearing for the respondents-contemnors, has filed a list of occupants in the disputed property which is taken on record. He further submits that the respondents-contemnors has already deposited an amount of Rs. 82,37,958.11 before this Court which fact is not disputed by counsel opposite who submits

that the matter is now awaiting further direction from the Executing Court, in view of certain obstructions which the bailiff had noted in the matter of delivering vacant and peaceful possession of the property to the decree holder. He further submits that the Executing Court has issued notices to the obstructionists, some of whom have already been served but some of them remain to be served and that the matter is now coming up for hearing before the Executing Court on Thursday, the 7th May, 2015.

In the circumstances, we adjourn this matter till after 7th May, 2015, to be posted on Wednesday, the 15th July, 2015. The Executing Court shall submit a report as to the progress made in the execution proceedings in the meantime."

4. The contemnor - respondent, who is present in Court, has tendered an unconditional apology before the Court. Having regard to the affidavits filed and the background of the various orders passed by this Court, we are inclined to accept the apology and drop the proceedings in contempt against the respondents. Ordered accordingly.

5. It is seen that pursuant to order dated 10.10.2014, the respondents have deposited an amount of Rs. 82,37,958.11 before this Court and the same, it is reported, is lying in the interest bearing account.

6. The learned counsel for the petitioner has submitted that pursuant to the order dated 01.12.2015, the petitioner has already filed an application before the Court of Small Causes at Mumbai regarding mesne profits. Though, Mr. Shyam Divan, learned senior counsel appearing for the respondents, persuasively submitted that the amount deposited may be returned to the respondents and the enquiry of mesne profits may take its own course, we are not inclined to accept this submission.

7. We are informed by the learned counsel for the petitioner that the application now filed for the mesne profits is for more than Re. One Crore. Be that as it may, the amount lying in deposit before the Registry of this Court shall be transferred to the Court of Small Causes, Mumbai together with interest in case No. LE & C Suit No. 355/481/1978. However, it would be open to the respondents to file an application, if so advised, regarding release or otherwise of the amount ordered to be transferred to the said Court.

8. With the above observations and directions, the contempt proceedings against the respondents are dropped.

9. We make it clear that all contentions regarding the mesne profits are left open to the parties to be addressed before the Small Causes Court, Mumbai in the pending proceedings. We also direct the Small Causes Court, Mumbai to dispose of the proceedings expeditiously and preferably within a period of one year.

10. In view of the above, the Contempt Petition is disposed of.

.....J.
[KURIAN JOSEPH]

.....J.
[ROHINTON FALI NARIMAN]

New Delhi;
February 02, 2016.

JUDGMENT