

CONTEMPT PROCEEDINGS SHALL NOT BE INITIATED WITHOUT DISPOSING OF MAIN/INTERIM APPLICATION

Vishnu S Warriar

Founder, Lex-Warrior Foundation

Abstract

It would be improper for the apex court to conduct a probe into the facts and record the findings on any of the issues collateral to any civil suit, which is pending before any of the subordinate court. Supreme Court in Quantum Securities Pvt Ltd & Ors v. New Delhi Television Ltd., (2015) 10 SCC 602 observed that, if a contempt proceeding is initiated without disposing the main/interim application/suit, then such proceedings might cause prejudice to parties.

Keywords: Contempt of Court Act, Contempt Proceedings, NDTV, Quantum Securities, (2015) 10 SCC 602

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Facts of the Case

The present Special Leave Petition came up before the Honourable Bench of Vikramajit Sen, Abhay Manohar Sapre of the Apex court against two interim orders passed by the Honourable High Court of Bombay in Civil Suit (L) No. 677 of 2013 (renumbered as Civil Suit No. 284/2014). The Respondent filed a civil suit in the High Court, for which the Court granted ex parte ad-interim relief. The hearing in the Notice of Motion is not concluded and is pending for its final disposal on merits. The Respondent, aggrieved by communication

alleged to have been made by the Appellants, in violation of the ex parte interim order filed a contempt petition against the Appellants. During the pendency of the contempt petition, the Respondent filed an additional affidavit in the contempt petition complaining that the Appellants had committed fresh contempt. The High Court issued notice to the Appellants to show cause as to why action under the provisions of the Contempt of Court Act not be initiated against them for violation of the orders. The court also issued an order restraining the Appellants

from issuing defamatory communication in connection with the Respondent. Hence, the present appeal.

Major Arguments

Learned senior counsel for the appellants in his submission doubted correctness of the decision of this Court in *Welset Engineers & Anr. v. Vikas Auto Industries & Ors.*¹, which was relied on by the learned senior counsel for the respondent against the appellants contending for dismissal of these appeals. According to learned counsel for the appellants, the said decision is per incuriam and thus requires to be reconsidered on the issue decided therein.

Obiter Dictum

In this case, the Honourable Court was of the opinion that it would be apposite to request the learned Single Judge to decide Notice of Motion No. 1553/2013 renumbered as 488/2014 arising out of Civil Suit No. 677/2013 renumbered as 284/2014 on merits in accordance with law preferably within three months from the date of receipt of copy of this judgment. Till it is decided, Court is inclined to stay the contempt proceedings out of which these appeals arise. After the disposal of the Notice of Motion, the contempt

proceedings may be decided in accordance with law including its maintainability etc.

Ratio Decidendi

Having heard the learned counsel for the parties and on perusal of the record of the case, Court consider it appropriate and in the interest of both the parties to defer its recording of findings on several issues arising in the case and more so legal issues on which lengthy arguments were addressed and request the learned Single Judge of the High Court, who is seized of Civil Suit No. 677/2013 renumbered as 284/2014 and of Notice of Motion No.1553/2013 renumbered as 488/2014, to first take up Notice of Motion No. 1553/2013 renumbered as 488/2014 filed by the respondent (plaintiff) under Order XXXIX Rules 1 and 2 of the Code and dispose of the same, after affording an opportunity to both the parties, on merits strictly in accordance with law. Since pleadings in the said Notice of Motion are complete long back, there does not appear any kind of prejudice being caused to any of the parties, if direction is issued for early disposal of the notice of motion on its merits.

Honourable Court further opined that, there is no justification on the part of parties (without blaming any one) to keep

¹ 2006 (32) PTC 190(SC)

the main Notice of Motion pending and prosecute its off-shoot proceedings in preference to the main case such as the one out of which these appeals arise.

When admittedly the order dated 06.08.2013 was an ex parte one then in such circumstances, no sooner the defendants (appellants) entered appearance in the civil suit and filed their pleadings in reply to the Notice of Motion, the Court which is seized of the main case should have made sincere endeavour to dispose of the Notice of Motion on merits in the light of the mandate contained in Order XXXIX Rule 3A of the Code which in clear terms provides that the Court shall make an endeavor to finally dispose of the application within 30 days from the date on which the ex parte injunction was granted.

Court was of the view that, once the Notice of Motion is finally decided on merits in accordance with law one way or the other

then the parties to the Lis can always work out their rights by taking recourse to legal remedies available to them for pursuing their grievance to higher fora either in appeal or revision, as the case may be, and may also prosecute the contempt proceedings arising out of the main case, if need arises.

Critical Comments

Once the Notice of Motion is decided on merits in accordance with the law then the parties can work out their rights by taking recourse to legal remedies available to them for pursuing their grievance to higher fora either in appeal or revision, and may also prosecute the contempt proceedings arising out of the main case. The contempt proceedings out of which these appeals arise are stayed. After the disposal of the Notice of Motion, the contempt proceedings may be decided in accordance with law including its maintainability.