

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.744 OF 2022

Asad Anwar Khatau ...Petitioner
Versus
State Of Maharashtra And Ors. ...Respondents

WITH

CONTEMPT PETITION NO. 742 OF 2022

Sagar Ashok Bhosle And Anr. ...Petitioners
Versus
State Of Maharashtra And Ors. ...Respondents

WITH

CONTEMPT PETITION (ST) NO. 27292 OF 2022

Shekhar K. Mahalaxmikar ...Petitioner
Versus
State Of Maharashtra And Ors. ...Respondents

WITH

CONTEMPT PETITION (ST) NO. 27296 OF 2022

Rahul Vivek Nadkarni And Anr. ...Petitioners
Versus
State Of Maharashtra Thr. Government Pleader & Ors. ...Respondents

WITH

CONTEMPT PETITION NO. 745 OF 2022

Ansari Mohammed Zaki ...Petitioner
Versus
State Of Maharashtra Thr. Government Pleader & Ors. ...Respondents

WITH

CONTEMPT PETITION NO. 743 OF 2022

K Ashrafuddin ...Petitioner
Versus
State Of Maharashtra Thr. Government Pleader & Ors. ...Respondents

WITH

CONTEMPT PETITION NO. 741 OF 2022

Vasant Rohidas Lotlikar ...Petitioner
Versus
State Of Maharashtra Thr. Government Pleader & Ors. ...Respondents

Shri Manish Gala a/w.Nilesh Gala a/w.Nishant Chothani i/b. Law Square, for
Petitioners in all Contempt Petitions.

Mr.A.I. Patel, Additional Government Pleader a/w.Smt.K.N. Solunke, AGP, for
State-Respondent.

Shri. Makrand V. Raut, for Respondent Nos.5 to 8 in all 7 Contempt Petitions.
Smt.Meghana A. Parab, Sr.Clerk, for State-Respondent all Contempt Petitions.

**CORAM : R.D. DHANUKA &
M.M. SATHAYE, JJ.**

DATED : 22nd DECEMBER, 2022

P.C. :

1. This matter was on board on 16.12.2022 when this Court recorded statement made by learned counsel for Respondent Nos.5 to 8 that his clients proposed to pay Petitioners in this Contempt Petitions in installments. Learned counsel for Respondent Nos.5 to 8 agreed to furnish details of the account and bank balance lying therein to enable to this Court to pass further order. This Court, accordingly, directed Respondent Nos.5 to 8 to furnish details of the properties in the name of Respondent Nos.5 to 8 and to produce on record original title deeds of the properties and assets belonging to them for perusal of the Court on the next date, without fail.

2. In pursuance of the said order, Respondent Nos.5 to 8 filed affidavit of disclosure, which was Notarized on 19.12.2022.

3. It is stated in the affidavit that the bank balance as on 19.12.2022 in the name of various companies disclosed in paragraph 2 with various banks is in the sum of Rs.49,01,292.93. In paragraph 3 of the affidavit, it is disclosed

that Respondent Nos.5 is a Partnership Firm of Ketan T. Shah and Jayesh T. Shah. The Income Tax Returns of Ketan T. Shah and Jayesh T. Shah for the Assessment Year 2022-23 is attached. It is further stated in the affidavit that there are no fixed assets in the name of the Partnership firm. It is further stated that aforesaid property developing/constructing a project known as “Gaurav Discovery” on the plot bearing C.T.S. No.2841 (Part) under Slum Rehabilitation Scheme consisting of Rehab/Sale Building.

4. It is further stated that the said construction is comprising of five wings. Insofar as wing ‘B’ is concerned, only one flat remained to be sold in wing ‘B’. In Wing ‘C’, there are 4 unsold flats. Learned counsel for Respondent Nos.5 to 8, on instruction stated that there are five buildings which are partially completed. In ‘D’ wing there are 5 flats unsold according to the said affidavit. The construction of ‘B’ wing has started. In wing ‘C’ there are 75 unsold flat and construction of ‘D’ wing is not started. In wing ‘F’, there are 23 unsold flats. So far as wing ‘F’ is concerned, the work has commenced.

5. Learned counsel for the Petitioners invited our attention to the balance sheet of Ketan T. Shah for the financial year 01.04.2021-31.03.2022 disclosing the investment in listed and unlisted share in the sum of Rs.4,45,13,478/-. He has also invited our attention to balance sheet of Jayesh T. Shah of the said period the investment in listed shares and unlisted shares in the sum of Rs.4,52,27,828/-.

6. Learned counsel for Respondent No. 5 to 8 submitted that there are large number of creditors. Numbers of proceedings are filed against Respondent Nos.5 to 8 by the Creditors. Learned counsel for Respondent No. 5 to 8 also submitted that clients are ready and willing to pay balance amount due and payable to the Petitioners in installments. They are willing and ready to pay Rs.50 lakhs by post dated cheques payable within seven working days and also undertake owner of the flats.

7. In paragraph 2 of the affidavit, they have disclosed name and the details of accounts which are also attached by the Collector in pursuance of the Order passed by this Court showing balance amount of Rs.49,01,292.93.

8. Considering the admitted position that there are large number of creditors and various proceedings are already filed against Respondent Nos.5 to 8, in our view, interest of justice would meet with by passing the following order:-

a) ICICI Bank, Borivali (W) branch is directed to deposit the amount lying in their bank, in this Court, within one week from the date of communication of this order without fail. The account number are as under:

Sr.No.	Company Name	Account Number
1	Yash Developments	053905002618
2	Yash Developments	053905002616
3	Yash Developments	053905002617
4	Primeland	053905002105

	Construction	
5	Ravi Foundation	053905002094
6	Ravi Ashish Land Dev. Ltd.	053905002157
7	Rajdeep Realtors Pvt. Ltd.	053905002129

b) Punjab National Bank, Kandivali (W) is directed to deposit the amount lying in their accounts in the name of Vidhi Realtors bearing Account Nos.1286002100040880 and 1286002100038348, in this Court, within one week from the date of communication of this order without fail.

c) These banks shall communicate the factum of deposit of the bank balance in this Court to the learned counsel for the Petitioners within three days from the date of deposit.

d) Upon such deposit, the Petitioners would be at liberty to withdraw the amount that would be deposited unconditionally.

e) The Prothonotary and Senior Master to permit withdrawal of such amount proportionately according to the share of the Petitioners expeditiously.

f) After making such deposit by these banks in this Court, these accounts shall stand de-frozen.

g) We direct Collector, Mumbai to attach all the investments reflected in the balance sheet of Ketan T. Shah and Jayesh T. Shah at page Nos.64 to 66

and 69 to 71 of the affidavit respectively.

h) We also direct to Collector, Mumbai to attach the unsold flats in 'B' 'C' and 'D' wings of the project Gaurav Discovery. Till an order of attachment is passed by the Collector, Respondent Nos.5 to 8 shall not create any third party rights in respect of unsold flats in 'B' 'C' & 'D' wing.

i) The details of the flat numbers shall be furnished by Respondent Nos.5 to 8 to the Collector within one week from today.

j) If Respondent Nos.5 to 8 propose to sell any of these assets including unsold flats, they are at liberty to apply before this Court for modification of this order.

k) If the Petitioners find any other assets of Respondent Nos.5 to 8, the same shall be brought to the notice to this Court for passing further order against Respondent Nos.5 to 8.

l) Smt.K.N. Solunke, learned AGP for State shall communicate this order to the Collector for information and compliance of order passed by this Court.

9. Parties to act on the authenticated copy of this order.

10. Place this petition on board for 'Direction' on **13th February, 2023.**

(M.M. SATHAYE, J.)

(R.D.DHANUKA, J.)