

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CONTEMPT PETITION (L) NO. 21680 OF 2021  
IN  
INTERIM APPLICATION NO. 467 OF 2021**

**Manish K. Ajmera and Anr. ...Petitioners  
V/s.  
Ketan T. Shah and Ors. ...Respondents**

**WITH  
INTERIM APPLICATION NO. 467 OF 2021  
IN  
COMMERCIAL EXECUTION APPLICATION NO. 1729 OF 2018  
WITH  
CONTEMPT PETITION (L) NO. 24889 OF 2024  
IN  
INTERIM APPLICATION NO. 467 OF 2021  
WITH  
INTERIM APPLICATION (L) NO. 6418 OF 2022  
IN  
COMMERCIAL EXECUTION APPLICATION NO. 1729 OF 2018**

Mr. Sanjay Jain with Mr. Anosh Sequeira, Mr Naresh Chheda and Ms. Sakina Electriwala i/b Dhruve Liladhar and Co. for Applicants.  
Mr. Karl Tamboly with Mr. Sharad Bansal, Mr. Deepak Shukla and Mr. Satsang Tailor i/b BNS Legal for Respondents in CPL 24889/24.  
Mr. Ketan Shah and Mr. Bhavya Shah, Respondents No. 1 and 4 are present.  
Mrs. V. N. Warlikar, SO, Court Receiver present.

**CORAM : ABHAY AHUJA, J.  
DATE : 21<sup>st</sup> AUGUST, 2024**

**PC. :**

**Contempt Petition (L) No. 24889 of 2024**

1. Mr. Tamboly, learned Counsel appears for the Respondents and submits that as directed by this Court the Respondents No. 1 and 4 are

present in the Court. However, the Respondent No.3 could not remain present in the Court because of his health condition and seeks to tender some medical papers across the bar.

2. No affidavit has been filed with respect to the health condition or seeking exemption from the appearance before this Court and also seeks some time to file reply in the Contempt Petition before notice is issued.

3. Let affidavit in response to the Contempt Petition be filed within a period of two weeks with copy to the others. Let rejoinder be filed by the next date with copy to the other side. Let Respondents No. 1, 3 and 4 remain present in the Court on the next date, failing which this Court will pass the appropriate orders.

Interim Application (L) No. 6418 of 2022

4. Pursuant to the order dated 7<sup>th</sup> August, 2024, today when the matter is called out, Mr. Jain reiterates his submissions that despite orders of this Court and despite undertaking given by the Respondents in this Application before this Court, the Respondents are not only in breach of injunctive orders of this Court, but also in breach of their

undertakings as they have been once again selling the flats and registering agreements.

5. None appears for the Respondents in the Interim Application, although the matter was kept back in the morning session and has again been called out in the afternoon session.

6. As and by way of background, Mr. Jain, learned Counsel appearing for the Applicant-Judgment Creditors has sought to tender across the bar summary of arguments on behalf of the Judgment Creditors.

7. Mr. Jain submits that the Judgment Debtor has been in breach of order dated 24<sup>th</sup> August, 2020, passed by this Court and entered into and registering agreements for sale with contractors of other projects which have supplied materials to other firms / companies to clear their dues, that in respect whereof the Contempt Petitions are pending. It is submitted that pursuant to the orders dated 4<sup>th</sup> October, 2021, 28<sup>th</sup> October, 2021 and 18<sup>th</sup> November, 2021 passed by this Court, the Judgment Debtor has filed affidavits of disclosure dated 28<sup>th</sup> October, 2021, 17<sup>th</sup> November, 2021 and 30<sup>th</sup> November, 2021, wherein the

Judgment Debtor has contended that he has disclosed all his assets and that multiple disclosure affidavits were required as the Judgment Debtor has failed to disclose his assets and failed to provide necessary particulars.

8. Mr. Jain would further submit that on the basis of the disclosures, the documents provided by the Judgment Debtors, it is clear that the disclosed assets are grossly insufficient to meet the amounts payable by the Judgment Debtor to the Judgment Creditors. That total value of assets as disclosed is Rs. 37,92,28,931/- whereas Maha Rera website reflects that the disclosed partnership firms of the Judgment Debtor are carrying on numerous large real estate development projects in Mumbai with massive unsold inventory as reflected at Exhibit Z to the Interim Application and that the Judgment Debtor holds these assets in the partnership firms with his brother and / or other family firms to prevent showing the same as his assets.

9. Learned Counsel submits that the total value of unsold units is Rs. 676,03,44,854/- and 50% value of such units is Rs. 338,01,72,427/-. That since the filing of this Application, the Judgment Debtor has been disposing of the unsold units. That the Maha Rera

website reflects that 12 flats have been sold in the Daivi Eterneety project.

10. Mr. Jain also draws the attention of this Court to the order of this Court dated 18<sup>th</sup> May, 2021 and in particular to paragraphs 2 and 4 of the said order which clearly suggest the dishonest conduct of the Respondent.

11. Mr. Jain also points out that on 23<sup>rd</sup> June, 2023 this Court (Coram: Manish Pitale, J. ) had directed reply to be filed within a period of two weeks. However, no reply has also been filed.

12. Mr. Jain accordingly submits that the Court Receiver be appointed in terms of Prayer Clauses (c) and (g), as otherwise the consent decree would be rendered infructuous as the Respondents would have completely alienated and disposed of the inventory by then.

13. As noted above, none is appearing for the Respondents, although on the last occasion, Mr. Narula had appeared and was to take instructions on the grievance raised by Mr. Jain.

14. Accordingly, having heard Mr. Jain, this Court is inclined to appoint Court Receiver in respect of the unsold inventory as contained in Exhibit Z and also to appoint the Court Receiver with power to sale the sell inventory for recovery of the outstanding dues of the Applicant under the consent decree.

15. The Court Receiver, High Court, Bombay is therefore appointed in terms of the prayer Clauses (c) and (g), which read thus:-

“(c) That this Hon’ble Court be pleased to pass an Order and direction appointing the Court Receiver, Bombay High Court with all the powers under Order XL of the Code of Civil Procedure, 1908 in respect of :

- (i) the unsold properties more particularly described at item 1 of the Schedule (Exhibit “Z” hereto);
- (ii) that unsold properties more particularly described at item 2 of the Schedule (Exhibit “Z” hereto);
- (iii) the unsold properties more particularly described at item 3 of the Schedule (Exhibit “Z” hereto);
- (iv) the unsold properties more particularly described at item 4 of the Schedule (Exhibit “Z” hereto);

(g) that this Hon’ble Court be pleased to pass an order and direction for the Court Receiver, Bombay High Court or such Officer as this Hon’ble Court deems fit and proper to sell the properties described in the Schedule at Exhibit “Z” hereto and to deposit the sale proceeds in this Hon’ble Court;.”

16. Let the Court Receiver, High Court, Bombay take possession, as per norms, of the property described in Exhibit Z to the Application

within a period of 8 weeks and submit report to this Court by the next date and in case of any obstruction, the Commissioner of Police, Mumbai to provide necessary police assistance.

16. List on 9<sup>th</sup> October, 2024.

(ABHAY AHUJA, J.)