

A BHATTAD LEASING AND FINANCE CO. LTD.

v.

MR. NUSLI NEVILLE WADIA AND ORS.

OCTOBER 30, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Contempt of Court :*

C *Order of High Court—Allegations against respondents of violating the order—Held, no case of contempt made out against some of the respondents—Not a fit case, for convicting other respondents for violation of the status quo order made by High Court.*

D The appellant Company filed the appeal by special leave challenging the judgment of the High Court in contempt proceedings against the respondents.

Dismissing the appeal, this Court

E HELD: 1. This is not a case fit for convicting respondents Nos. 5, 6 and 7 for violation of the *status quo* order made by the High Court on May 30, 1994. No case of contempt arises against respondents Nos. 1 to 4. Though 6th respondent was served with the notice directing him to be present, he was not present. His conduct is condemned as unbecoming of a responsible citizen. [525-C-D]

F 2. The Receiver's report disclosed that possession of 39,000 sq. mtrs. of land was given by respondents Nos. 5 and 6 to the East West Development Company. In that behalf since the controversy was not focussed in the High Court and the matter has come to light only through the report submitted by the Court Receiver after the contempt proceedings were initiated, it is open to the petitioner to take appropriate action according G to law. [525-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 10180 of 1995.

H From the Judgment and Order dated 14.10.94 of the Bombay High Court in Notice of Motion No. 559/94 in W.P. No. 1486/94.

P.P. Rao, F.S. Nariman, Arun Jaitley, Ram Jethmalani, Ashok Desai, A  
 R.F. Nariman, H.N. Salve, Navin Vimal Dalal, P.N. Gupta, Navroj Seervai,  
 R.N. and Manik Karanjawala, Ms. Nandini Gore, P.K. Mullick, Ms.  
 Anuradha Bindra, R.N. Keshwani, P.H. Parekh, P. Shroff, S. Sharma,  
 Ravinder Narain, Ashok Sagar, Punita Singh and Rajan Narain, for the  
 Appearing parties. B

The following Order of the Court was delivered :

Leave granted.

Having heard all the counsel for both the parties in extenso and C  
 perusing relevant material on record, ultimately we conclude that this is  
 not a case fit for convicting respondent Nos. 5, 6 and 7 for violation of the  
*status quo* order made by the High Court on May 30, 1994. No case of  
 contempt arises against respondents Nos. 1 to 4. Though 6th respondent D  
 was served with the notice directing him to be present, he was not present.  
 Had we been informed at the beginning, we would have taken appropriate  
 steps for his presence by non-bailable warrants. But at the end of the  
 arguments, we were informed of it. We strongly condemn his conduct as  
 unbecoming of a responsible citizen.

However, these facts which emerged at the hearing are relevant facts E  
 to be considered for the purpose of disposal of the writ petition on merits.  
 Since the writ petition is pending, we decline to express any opinion on the  
 facts and circumstances and on merits. The contempt petition is accord-  
 ingly dismissed.

However, the High Court is requested to disposed of the writ petition F  
 as expeditiously as possible preferably within six months from the date of  
 receipt of this order.

The Receiver's report disclosed that possession of 39000 sq. mts. of G  
 land was given by respondent Nos. 5 and 6 to the East West Development  
 Company. In that behalf since the controversy was not focussed in the High  
 Court and the matter has come to light only through the report submitted  
 by the Court Receiver after the contempt proceedings were initiated, it is  
 open to the petitioner to take appropriate action according to law. The  
 appeal is dismissed accordingly.

R.P.

Appeal dismissed.