

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**C.C.No.1528 OF 2021**  
**In**  
**W.P.No.22646 OF 2002**

**Between:**

M/s. Eureka Heat & Exchangers Limited

... **Petitioner**

**And**

B.Satyanarayana & others

... **Respondents**

**JUDGMENT PRONOUNCED ON: 25.11.2024**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

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**MRS JUSTICE SUREPALLI NANDA**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****C.C.No.175 OF 2024**  
**In**  
**W.P.No.24231 OF 2023****% 25.11.2024****Between:**

# M/s. Eureka Heat &amp; Exchangers Limited

**... Petitioner****And**

\$ B.Satyanarayana &amp; others

**... Respondents**

&lt; Gist:

&gt; Head Note:

<b>! Counsel for the Petitioner</b>	:	Sri S.Ravi, Ld. Senior Counsel
<b>^ Counsel for Respondents</b>	:	Sri M.Hamsa Raj, for R1 Sri G.Sudershan, for R2 Sri Sharad Sanghi, for R3

? Cases Referred:

- (1) 2014 (3) SCC Page 373
- (2) Judgment dated 28.07.2015 in W.P.No.10602 and 17935 of 2015

**THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**

**C.C. No.1528 OF 2021**  
**In**  
**W.P.No.22646 OF 2002**

**ORDER:**

Heard learned Senior designate counsel Sri S.Ravi appearing on behalf of the petitioner, Sri M.Hamsa Raj, learned counsel appearing on behalf of respondent No.1, Sri G.Sudershan, learned counsel appearing on behalf of respondent No.2 and Sri Sharad Sanghi, learned counsel appearing on behalf of respondent No.3.

2. The present Contempt Case is filed assailing non-compliance of the orders passed by this Court dated 27.02.2004 in W.P.No.22646 of 2002.

3. **The operative portion of the order dated 27.02.2004 passed in W.P.No.22646 of 2002 is extracted hereunder:**

"For the foregoing reasons, the writ petition is allowed as prayed for."

4. **The prayer sought for in W.P.No.22646 of 2002 is extracted hereunder:**

"Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly, one in the nature of Writ of Mandamus declaring that the Auction Proceedings initiated by the 1<sup>st</sup> respondent by its Advertisement dated 24.07.2002 and subsequent acceptance of the bid from the 2<sup>nd</sup> respondent for 1.2 crores is illegal, unconstitutional, inequitable and opposed to the principles of natural justice especially conditions No.29 of the Tender Form."

5. It is the specific case of the petitioner in the present Contempt Case that in spite of several representations for implementation of the order of this Court dated 27.02.2004 passed in W.P.No.22646 of 2002 though the same had attained finality, the respondents 1 and 2 had preferred W.As and also SLPs and failed in obtaining favourable orders, the respondents however are not delivering the possession of Plot No.26 IDA, Balanagar, Industrial Estate, Hyderabad, and that the conduct of respondent No.1 in not taking possession of the property admeasuring 5,111 Sq. Yards in Plot No.26 of IDA, Balanagar, Industrial Estate, Hyderabad and the conduct of respondent Nos.2 and 3 being in possession and in not returning the property to the petitioner amounts to willfully

disobeying the High Court's order dated 27.02.2024 in W.P.No.22646 of 2022 and the said action amounts to Civil Contempt. Hence this Case.

**6. The counter affidavit has been filed on behalf of Respondent No.1, relevant paragraph Nos.16 and 17 are extracted hereunder:**

**"16.** It is respectfully submitted that this Hon'ble High Court has passed the following order in WP No.22646 of 2002 "The writ petition is allowed as prayed for" and the prayer in the Writ petition is "Declare the Auction proceedings initiated by the 1<sup>st</sup> respondent by its advertisement dated: 24.07.2002 and subsequent acceptance of bid from 2<sup>nd</sup> respondent as illegal". However there is no order to hand over the possession of the unit to the petitioner herein. The orders passed in Writ Appeal No.784 of 2004 and Writ Appeal No.1142 of 2004 by this Hon'ble Court are "having regard to the facts and circumstances of the case and the cogent reasons recorded in the judgment under appeal, we discern no error in the application of law or exercise of discretion by the learned single judge warranting interference in this appeals. The Writ appeals are accordingly in the circumstances no cause". The Hon'ble supreme court has passed the following order in the SLP No.30380 of 2011 & 7928-7929 of 2012 "we do not find any legal and valid ground for interference this

Special leave petitions are dismissed". And the Hon'ble supreme Court also dismissed the Review Applications i.e., MA.No.867 of 2018 with the following order. "We find no reason to entertain this Application which is accordingly dismissed". Therefore it is clear from the above judgments that the Hon'ble courts have only set aside the sale proceedings initiated by the 1<sup>st</sup> respondent, however there is no order to the effect that possession of the unit has to be handed over to the petitioner herein.

**17. It is respectfully submitted that the petitioner is due an amount of Rs.12,00,26,041/- to the corporation as on 31.10.2018. The petitioner has to repay the total dues to the corporation for claiming possession of the unit. The respondent corporation is bound to recover its dues from the petitioner which are public funds. The petitioner without coming forward to repay the dues is claiming the possession of the unit though no order was passed to that effect by the Hon'ble courts. This respondent respectfully submits that in obedience of the orders passed by this Hon'ble Court in W.P.No.22646 of 2002 have initiated legal proceedings against the 2<sup>nd</sup> & 3<sup>rd</sup> respondent for recovery of possession which are pending before the Hon'ble court for adjudication. Therefore this respondent is liable for any contempt proceedings."**

The counter affidavit has been filed on behalf of 3<sup>rd</sup> respondent deposing the said counter affidavit on behalf of respondent No.2.

7. The main grounds urged in the said counter affidavit by respondents 2 and 3 seeking dismissal of the Contempt Case are enlisted hereunder:

i). That, the writ petition 22646/2002 has been filed only with a prayer to declare the initiation of the auction proceedings as according to the advertisement dated 24.07.2002 and subsequent acceptance of the bid as illegal and the said writ petition came to be allowed as prayed for which has become final uptill the Hon'ble Supreme Court. Therefore, there is no cancellation of the auction as the petitioner never sought to declare the auction as null and void and the same being not granted by the court, there cannot be a contempt about an order which has not been granted.

ii). That, the present contempt is not maintainable in lieu of the filing of the writ petition No.8433/2020 by the present petitioner himself praying to dispose of the representation of the petitioner dated 01.02.2020 as illegal, arbitrary and violative of Article 14, 21 and 300-A of the Constitution of India and consequently to direct the respondent to hand over the possession of the industrial unit in original condition to the petitioner as a

parallel remedy cannot be resorted to. The law in this regard is well settled by the Hon'ble Supreme Court in the judgment reported in AIR 1977 (1) SCC page 1.

iii)a). That, the State Finance Corporation has also filed OS 81/2020 against these respondents for declaring the sale deeds as null and void and also for delivery of vacant physical possession to the State Finance Corporation, wherein the present petitioner has also been arrayed as defendant No.4. However, the present petitioner remained *exparte* and did not contest the said matter and ultimately the said OS 81/2020 came to be dismissed as plaint rejected.

b). The petitioner having not appeared in the said suit inspite of having knowledge about the pendency of the said suit which has been solely contested by these respondents amounts to *estopple* by conduct barred under Section 115 of the Evidence Act. Further, the present contempt proceedings is also amounts to "*forum hunting*", which the petitioner is not entitled to.

iv). That, the present petition is also *barred by limitation* as according to Section 20 of the Contempt of Courts Act, a period of one year has been contemplated from the date of cause of action. The cause of action in the present case shall be deemed to have been arisen on 09.04.2014 when the orders passed in W.P.No.22646/2002 have been merged with the orders passed by the Hon'ble Supreme Court. The orders passed by the Hon'ble Supreme Court dt. 22.01.2016 is the



"breaking point" and hence, any subsequent correspondence will not extend the period of limitation. Therefore, the present contempt petition filed on 20.10.2021 is hopelessly barred by limitation.

v). That, the present contempt is also not maintainable as per the Doctrine *"illegality cannot be perpetuated"*. In the event of allowing the present contempt petition and putting the petitioner in physical possession of the property will certainly amounts to reviving the proceedings, wherein the petitioner himself is admittedly a defaulter and needs to pay not less than Rs.15 crores (subject to the exact calculations given by the 1<sup>st</sup> respondent herein) and therefore, unless the petitioner who never averred in the present contempt proceedings or anywhere that he is ready and willing to pay the defaulted amount to the State Finance Corporation cannot be allowed to take advantage of his own wrong.

vi). That, the present petition filed against the 1<sup>st</sup> respondent who was earlier the branch manager of State Finance Corporation and presently retired is not sustainable under law.

vii). That, the relief which has not been sought for in the earlier writ petition No. 22646/2002 and which has not been granted by the court cannot be allowed in the contempt proceedings in as much as, as according to the judgment of a Taylor Vs. Taylor which says that *"a thing which needs to be done in a particular manner needs to be done in the same*

*manner or otherwise need not been done". Therefore, an order which has not been asked for or allowed cannot be granted.*

viii). That, the present petitioner has not come to the court with a clean hands as he has not sought for depositing the defaulted amount in the State Finance Corporation and therefore, contempt is not sustainable under law.

**PERUSED THE RECORD.**

**8. Para '9' of the affidavit filed on behalf of the petitioner in support of the present Contempt Case is extracted hereunder:**

**"9. In view of the inaction on part of Respondent No.1 in not complying with the order of the High Court, the Petitioner herein was constrained to file W.P.No.8433 of 2020 with a prayer for declaring the inaction of the Respondent No.1 as being illegal, arbitrary and violative of Articles 14, 21 and 300A. The writ petition is pending as on date of filing the present contempt case."**

**9.** This Court taking into consideration the averments made at para '9' of the affidavit filed by the petitioner in support of the present Contempt Case opines that petitioner cannot resort to a parallel remedy for the same relief.

**10.** This Court opines that the prayer sought for by the petitioner in W.P.No.22646 of 2002 (referred to and extracted above) and which had been granted in favour of the petitioner herein vide orders of this Court dated 27.02.2004 is different from what is being urged by the petitioner in the present Contempt Case i.e., the conduct of Respondent Nos.2 and 3 being in possession and in not returning the property to the petitioner as amounting to willfully disobeying the High Court order dated 27.02.2004 in W.P.No.22646 of 2002. This Court opines that in view of the fact as borne on record that there is no order or observation by this Court in its order dated 27.02.2004 in W.P.No.22646 of 2002 in favour of the petitioner with respect to the restoration of the possession to the present writ petition, this Court opines that the present Contempt Case is not sustainable in law.

**11. The Apex Court in the Judgment dated 04.02.2014 reported in 2014 (3) SCC Page 373 in "SUDHIR VASUDEVA, CHAIRMAN AND MANAGING DIRECTOR, OIL AND NATURAL GAS CORPORATION LIMITED AND OTHERS v. M.GEORGE RAVISHEKARAN AND OTEHRS", at para 19 of its Judgment observed as under:**

"19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. **Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same. Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdiction like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt**

**law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above.** The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, *Jhareswar Prasad Paul v. Tarak Nath Ganguly*, *V.M. Manohar Prasad v. N. Ratnam Raju*, *Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami and Union of India v. Devassy PV.*”

**12. The Judgment of Division Bench of High Court of Judicature for the State of Telangana and Andhra Pradesh at Hyderabad dated 28.07.2015 in W.P.No.10602 and 17935 of 2015 in Kotak Mahindra Bank Ltd., Hyderabad v. Station House Officer, Madhapaur P.S., Hyderabad and others referring to Contempt Proceedings observed at paras 37 and 38 of its Judgment as under:**

“**37.** While contempt proceedings can be initiated for violation of orders of Court, the jurisdiction which this Court exercises, under the Contempt of Courts Act, is limited only to an enquiry whether its orders have been wilfully violated and, in such cases, to impose punishment. The injury which the person, in whose favour an order is passed by the Court, suffers at the hands of the other party who has violated the order, cannot be compensated in contempt proceedings. While

dealing with an application for contempt, the Court is really concerned with the question whether the earlier decision has been complied with or not. The Court, exercising contempt jurisdiction, is primarily concerned with the question of contumacious conduct of the party who is alleged to have committed default in complying with the directions in the judgment or order. (*Special Deputy Collector (LA) v. N. Vasudeva Rao* 2008 (3) ALD 38 (SC) = (2007) 14 SCC 165; *Union of India v. Subedar Devassy PV*, 2006 (2) ALD 30 (SC) = (2006) 1 SCC 613; *Prithawi Nath Ram v. State of Jharkhand*, (2004) 7 SCC 261; and *Lalith Mathur v. L. Maheswara Rao*, (2000) 10 SCC 285).

**38.** In a proceeding for contempt, the High Court can decide whether contempt of Court has been committed and, if so, what should be the punishment to be imposed, and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties. Any direction issued, or decision made, by the High Court on the merits of a dispute between the parties will not be in the exercise of the "jurisdiction to punish for contempt". (*Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda*, 2006 (4) ALD 53 (SC) = (2006) 5 SCC 399). *The only remedy which the person who suffered an injury has, in this regard, is to invoke the jurisdiction of this Court under Article 226 of the Constitution of India seeking restitution, and for necessary directions to enforce its earlier order."*

**13.** This Court on the ground of petitioner persuing a parallel remedy and seeking grant of a prayer indirectly under the guise of Contempt Proceedings which actually had not been granted to the petitioner is not inclined to grant the prayer as sought for in the present Contempt Case.

**14.** This Court opines that the Judgments relied upon by the learned counsel appearing on behalf of the petitioner do not apply to the facts of the present Contempt Case and all the pleas put forth by the learned counsel appearing on behalf of the petitioner are rejected.

**15. Taking into consideration:**

**(a) The observations in the Judgments of the Apex Court reported in:**

**(I) Judgment dated 04.02.2014 reported in 2014 (3) SCC Page 373 in "SUDHIR VASUDEVA, CHAIRMAN AND MANAGING DIRECTOR, OIL AND NATURAL GAS CORPORATION LIMITED AND OTHERS v. M.GEORGE RAVISHEKARAN AND OTEHRS",**

**(II) The Judgment of the Division Bench of High Court of Judicature for the State of Telangana and Andhra Pradesh at Hyderabad dated 28.07.2015 in W.P.No.10602 and 17935 of 2015 in Kotak Mahindra Bank Ltd., Hyderabad v. Station House Officer, Madhapur P.S., Hyderabad and others (referred to and extracted above),**

**(b) The averments made at para '9' of the affidavit filed by the petitioner in support of the present Contempt Case,**

**(c) The fact as borne on record that the petitioner did not seek cancellation of subject auction in his prayer in W.P.No.22646 of 2002 and the same not being granted to the petitioner by this Court in its order dated 27.02.2004 passed in W.P.No.22646 of 2002, this Court opines that there is no violation of the orders of this Court dated 27.02.2004 passed in W.P.No.22646 of 2002 as contended by the petitioner herein and the Contempt Case is accordingly closed. However, there shall be no order as to costs.**



Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

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**MRS. JUSTICE SUREPALLI NANDA**

Date: 25.11.2024

**Note :** L.R. Copy to be marked.  
B/o. *Yvkr*