RNI No. MAHBIL /2009/35527
Reg. No. MH/MR/South-343/2014-16

सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-क

वर्ष ६, अंक ७४] सोमवार, डिसेंबर १, २०१४/अग्रहायण १०, शके १९३६ [पृष्ठे २, किंमत : रुपये ९.००

असाधारण क्रमांक १२८

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकाऱ्यांनी तयार केलेले
(भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर)
वैधानिक नियम व आदेश ; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क), जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

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THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

NOTIFICATION

No. P. 3602/2014.—The Honourable the Chief Justice and Judges of the Bombay High Court are pleased to direct that the following amendments shall be made to Rule 24 in Chapter XXXIV of the Bombay High Court Appellate Side Rules, 1960 (Reprint 1981) with effect from 1st December, 2014.

Substitute the following Rule as Rule 24(i) to (iv) for the existing Rule 24 of Rules to Regulate Proceedings For Contempt Under Article 215 of The Constitution of India and The Contempt of Courts Act, 1971 contained in Chapter XXXIV of The Bombay High Court Appellate Side Rules, 1960 :—

Rule 24(i) : Every Petition or reference in respect of Civil Contempt alleging willful disobedience of any ad-interim/interim or final order passed by the High Court shall be heard and disposed of by the concerned Division Bench or Single Judge, as the case may be, before which/whom the main matter is pending or before which/whom the main matter would lie, if it were pending.

Rule 24(ii) : Every Petition or reference in respect of Civil Contempt of Subordinate Court shall be heard and disposed of by a Single Judge.

Rule 24(iii) : Notwithstanding anything contained in Sub Rules (*i*) and (*ii*), the Chief Justice may in his discretion assign to a Division Bench Contempt Petition which would otherwise lie before a Single Judge.

Rule 24(iv) : Notwithstanding anything contained in Sub Rules (*i*) and (*ii*), the Chief Justice, in his discretion, may assign Civil Contempt Petition to any other Division Bench or Single Judge.

HIGH COURT OF JUDICATURE AT BOMBAY,
Dated 29th November, 2014.

DR. MRS. SHALINI PHANSALKAR JOSHI,
Registrar General.

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ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY SHRI PARSHURAM JAGANNATH GOSAVI, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004, EDITOR : SHRI PARSHURAM JAGANNATH GOSAVI.

RNI No. MAHBIL /2009/35527
Reg. No. MH/MR/South-343/2014-16

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-क

वर्ष ६, अंक ७४(२)] सोमवार, डिसेंबर १, २०१४/अग्रहायण १०, शके १९३६ [पृष्ठे २, किंमत : रुपये ९.००

असाधारण क्रमांक १२९

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिका-यांनी तयार केलेले
(भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर)
वैधानिक नियम व आदेश ; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क), जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

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THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

NOTIFICATION

No. G/Amend/ 392.— The Honourable the Chief Justice and Judges of the Bombay High Court are pleased to direct that the following amendments shall be made in Rule 1051 of Chapter LVIII of Bombay High Court Original Side Rules, 1980 with effect from 1st December, 2014.

Substitute the following Rule as Rule 1051(i) to (iv) for the existing Rule 1051 of Rules to Regulate Proceedings For Contempt Under Article 215 of The Constitution of India and The Contempt of Courts Act, 1971 contained in Chapter LVIII of Bombay High Court Original Side Rules, 1980 :—

Rule 1051(i) : Every Petition or reference in respect of Civil Contempt alleging willful disobedience of any ad-interim / interim or final order passed by the High Court shall be heard and disposed of by the concerned Division Bench or Single Judge, as the case may be, before which/whom the main matter is pending or before which/whom the main matter would lie, if it were pending.

Rule 1051(ii) : Every Petition or reference in respect of Civil Contempt of Subordinate Court shall be heard and disposed of by a Single Judge.

Rule 1051(iii) : Notwithstanding anything contained in Sub Rules (*i*) and (*ii*), the Chief Justice may in his discretion assign to a Division Bench Contempt Petition which would otherwise lie before a Single Judge.

Rule 1051(iv) : Notwithstanding anything contained in Sub Rules (*i*) and (*ii*), the Chief Justice, in his discretion, may assign Civil Contempt Petition to any other Division Bench or Single Judge.

HIGH COUET OF JUDICATURE AT BOMBAY,
Dated 29th November, 2014.

DR. MRS. SHALINI PHANSALKAR JOSHI,
Registrar General.

IndiaCode

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY SHRI PARSHURAM JAGANNATH GOSAVI, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004. EDITOR : SHRI PARSHURAM JAGANNATH GOSAVI.

Chapter XXXIV

[1][Rules to Regulate Proceedings for Contempt under Article 215 of the Constitution of India and the Contempt of Courts Act, 1971

667.

1. Title - These Rules shall be called The Contempt of Courts (Bombay High Court) Rules, 1994.

2. Commencement - They shall come into force on the date of publication.

3. Definition - In these Rules, unless there is anything repugnant to the subject or context-

(a) "Act" means the Contempt of Courts Act, 1971 (No. 70 of 1971);

(b) "High Court" means the High Court of Judicature at Bombay and/or such other Court as may be designated as such for the purpose of the Contempt of Courts Act, 1971;

(c) "Judge" means a Judge of the High Court of Judicature at Bombay o of a Court designated as such for the purposes of Contempt of Courts Act, 1971;

(d) "Prothonotary" means the Prothonotary and Senior Master of the High Court and shall include the Additional Prothonotary and the Officer on Special Duty of a designated Court;

(e) "Registrar" means the Registrar of the High Court and shall include Additional Registrar, at Nagpur, Aurangabad or Goa;

(f) all the words and expressions used in these Rules but not defined therein shall have the meanings respectively assigned to them in the Act.

Part I

4. (1) Where Contempt of Court is committed in view or presence or hearing of Court the contemnor may be punished by the Court before which Contempt is committed either forthwith or on a such date as may be appointed by the Court in that behalf.

(2) Pending the determination of the charge, the Court may direct that contemnor shall be detained in such custody as it may specify:

Provided that the contemnor may be released on bail or on such other terms as to undertakings or otherwise as the Court may direct.

Part II

5. In case of Contempt of Court other than the Contempt referred to in Rule 4, Court may take action-

(a) *Suo motu*, or

(b) on a petition made by Advocate General.

(c) on a petition made by any person, and in the case of a criminal contempt with the consent in writing of the Advocate General

(d) on a reference made to the High Court by any Subordinate Court in respect of Civil Contempt, or

(e) on a reference under Section 15(2) of the said Act made by a subordinate Court either *suo motu* or on an Application received by it.

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1. Substituted by No. P 3603/94, dt. 26.3.96 MGG Pt IV-C P. 364-368.

COGNIZANCE AND PROCEDURE

6. Parties to the Petition,—

(a) Every Petition for initiating proceedings for Contempt of Court shall be re as Contempt Petition.

(b) In a proceeding initiated by Petition the initiator shall be described as Pe and the opposite party as Respondent.

(c) In every Petition for criminal contempt, the State of Maharashtra shall be Respondent.

7. (a) Every Petition or Reference under Rule 5(b), (c), (d) or (e) shall contain

(i) the name, description and complete address of the Petitioner or Petitioners the person charged;

(ii) nature of the contempt alleged, and such material facts, including the date o of commission of the alleged contempt, as may be necessary for the proper determ of the case;

(iii) if a Petition has previously been made by him on the same facts, the Petitione give the details of the Petition previously made and shall also indicate the result t

(b) Every Petition under Rule 5(c) shall be supported by an Affidavit.

(c) Where the Petitioner relies upon a document or documents in his posses power, he shall file such document or documents or true copies thereof w Petition.

8. (1) Every Petition or Reference under Rules 5(b), (c), (d) or (e) shall on being f received be forthwith posted before the Court for preliminary hearing and for order issue of notice. Upon such hearing, the Court, if satisfied that a *prima facie* case ha made out for issue of notice, may issue such notice to the Contemnor and, if not so sa may dismiss the petition.

(2) the Court may, if it thinks it absolute necessary to do so, and where the C of the opinion that mere service of Notice, will not secure the presence of the Conte alongwith issue of Notice also issue a bailable or non-bailable warrant for arrest Contemnor.

9. (1) Notice to the person charged shall be form I. The person charged shall, u otherwise ordered, appear in person before the Court as directed on the date fic hearing of the proceeding, and shall continue to remain present during hearing t proceedings in finally disposed off by Order of the Court.

(2) When action is initiated on a Petition or a Reference, a copy of the Petition Reference alongwith the annexures and Affidavit shall be served upon the person ch

10. The person charged may file his reply by way of an Affidavit or Affidavits witl days from the service of the Notice or within such time as the Court may fix.

11. No further Affidavit or document shall be filed except with the leave of the C

12. (a) Reference under Section 15(2) of the Act may be made by subordinate C either *suo motu* or on an Application received by it.

(b) Before making a reference the subordinate Court shall hold a preliminary er by issuing a Show Cause Notice accompanied by copies of relevant documents, if a the contemnor and after hearing him the subordinate Court shall write a concise rea Order of Reference indicating the nature of the Contempt and the person/persons a to have comitted it.

13. The High Court may on its Appellate Side, entertain a Petition for Conten Subordinate Court. If it considers it necessary, it may direct the Subordinate Co investigate nto question into question of fact and make a report.

14. Every Petition made by the Advocate General under sub-section (2) of Secti *of the Act shall state the relevant facts on the basis of which it is alleged that the cont apears to have been committed by the person/persons named therein. The Petition broadly summarise the relevant material justify filing of the Petition.*

15. Unless otherwise ordered by the Court, four copies of the Paper Book shall be prepared in the office of the Prothonotary and Senior Master or the Registry, one for the petitioner, one for the opposite party and the remaining for the use of the Court. The Paper Books shall consist of the following documents:-

(i) Petition and Affidavits filed by the Petitioner,

(ii) A copy of, or a statement relating to, the objectonable matter or material constituting the alleged contempt.

(iii) Reply and Affidavit of the Opposite Party, if any?

(iv) Copies of Documents filed by the parties

(v) Any other documents which the Prothonotary/Registrar may deem fit to include.

16. The Court may direct the Advocate General to appear and assist the Court.

17. The Court may, if it has reason to believe, that the person charged is absconding or is otherwise evading service of notice, or if he fails to appear in person or to continue to remain present in person in pursuance of the Notice, direct a Warrant bailable or non-bailable for his arrest or may direct attachment of his property as may be specified in the Order by the Court. The Warrant shall be issued under the signature of the Prothonotary or Registrar or Officer on Special Duty as the case may be. The warrant shall be executed, as far as may be in the manner provided for execution of warrants under the Code of Criminal Procedure.

18. The Court may pass such orders as it thinks fit including Orders as to costs which may be recovered as if the Orders were a decree of the COurt.

19. (a) Every Notice issued by the High Court or Designated Court to the contemnor shall be accompanied by a copy of Petition or Reference, as the case may be, together with the copies of Affidavit, if any.

(b) Such Notice issued by the High Court or Designated Court shall be signed and dated by the Prothonotary or Additional Prothonotary or Officer on Special Duty or Assistant Registrar and shall be sealed with the seal of the High Court or the concerned Court.

(c) Notice of every proceeding under this Act shall be served personally on the person charged, unless the Court, for reasons to be recorded, directs otherwise. In the case of service may be effected in the manner prescribed under the Code of Civil Procedure and Procedure and/or the High Court Rules or the Rules of the concerned Court for service of process.

20. Whenever the High Court or designated Court issue a notice, it may dispense with the personal attendance of the person charged with the contempt and permit him to appear through an Advocate and in its discretion, at any stage of the proceeding, direct the personal attendance of such person, and, if necessary, enforce such attendance in the manner herein above provided.

21. When any person charged with contempt appears or is brought before the Court or the designated Court such person/persons may be released on bail on such terms and conditions as the Court may be deem fit and proper.

Enquiry

22. (a) Any person charged with contempt, may file Affidavit in support of his defence on the date fixed for his appearance or on such other date as may be fixed by the Court in that behalf.

(b) if such person pleads guilty to the charge, his plea shall be recorded and the Court may, in its discretion, convict him thereon.

(c) If such person refuses to plead or does not plead, or claims to be tried or the Court does not convict him on his plea of guilt, it may determine the matter of the charges either on the Affidavits filed or after taking such further evidence as it deems fit.

23. The Rules contained in Bombay High Court Rules pertaining to grant of copies, process fees and translation of documents and such other matters in respect of which no provision is made in the Rules shall *mutatis mutandis* apply to the proceedings in the High Court and designated Court.

24. Every Petition or reference in respect of Civil contempt including Civil contempt of a subordinate Court shall be heard and disposed of by a single Judge.

25. (a) In case of contempt arising out of a proceeding on the Original Side of the High Court, the petition shall be on the original Side of the High Court.

(b) In case of contempt arising out of a proceeding on the Appellate Side of the High Court, the Petition shall be filed on the Appellate Side.

(c) Petitions or Reference for Contempt of Subordinate Courts shall be filed on the Appellate Side.

(d) In case of contempt arising out of proceeding before the Designated Court, the petition shall be fild before the Designated Court. All the rules herein shall apply *mutatis mutandis* in respect of Contempt of the Designated Court.

PART III

26. Where a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a Warrant of Commitment and detention shall be made out under the signature of Prothonotary or Registrar or Officer on Special Duty as the case may be."

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Chapter XIII

[1][Rules to Regulate Proceedings for Contempt under Article 215 of The Constitution of India and The Contempt of Courts Act, 1971

1. Title - These Rules shall be called The Contempt of Courts (Bombay High Court) Rules, 1994.

2. Commencement - They shall come into force on the date of publication.

3. Definition - In these Rules, unless there is anything repugnant to the subject or context-

(a) "Act" means the Contempt of Courts Act, 1971 (No. 70 of 1971);

(b) "High Court" means the High Court of Judicature at Bombay and/or such other Court as may be designated as such for the purpose of the Contempt of Courts Act, 1971;

(c) "Judge" means a Judge of the High Court of Judicature at Bombay o of a Court designated as such for the purposes of Contempt of Courts Act, 1971;

(d) "Prothonotary" means the Prothonotary and Senior Master of the High Court and shall include the Additional Prothonotary and the Officer on Special Duty of a designated Court;

(e) "Registrar" means the Registrar of the High Court and shall include Additional Registrar, at Nagpur, Aurangabad or Goa;

(f) all the words and expressions used in these Rules but not defined therein shall have the meanings respectively assigned to them in the Act.

PART I

4. (1) Where Contempt of Court is committed in view or presence or hearing of Court the contemnor may be punished by the Court before which Contempt is committed either forthwith or on a such date as may be appointed by the Court in that behalf.

(2) Pending the determination of the charge, the Court may direct that contemnor shall be detained in such custody as it may specify:

Provided that the contemnor may be released on bail or on such other terms as to undertakings or otherwise as the Court may direct.

PART II

5. In case of Contempt of Court other than the Contempt referred to in Rule 4, Court may take action-

(a) *Suo motu*, or

(b) on a petition made by Advocate General.

(c) on a petition made by any person, and in the case of a criminal contempt with the consent in writing of the Advocate General

(d) on a reference made to the High Court by any Subordinate Court in respect of Civil Contempt, or

1. Substituted by No. P. 3603/94, dt. 26.3.96, M.G.G., Pt. IV-C, pp. 364-368.

(c) on a reference under Section 15(2) of the said Act made by a subordinate Court either *suo motu* or on an Application received by it.

COGNIZANCE AND PROCEDURE

6. Parties to the Petition,—

(a) Every Petition for initiating proceedings for Contempt of Court shall be registered as Contempt Petition.

(b) In a proceeding initiated by Petition the initiator shall be described as Petitioner and the opposite party as Respondent.

(c) In every Petition for criminal contempt, the State of Maharashtra shall be made a Respondent.

7. (a) Every Petition or Reference under Rule 5(b), (c), (d) or (e) shall contain

(i) the name, description and complete address of the Petitioner or Petitioners and of the person charged;

(ii) nature of the contempt alleged, and such material facts, including the date or dates of commission of the alleged contempt, as may be necessary for the proper determination of the case;

(iii) if a Petition has previously been made by him on the same facts, the Petitioner shall give the details of the Petition previously made and shall also indicate the result thereof;

(b) Every Petition under Rule 5(c) shall be supported by an Affidavit.

(c) Where the Petitioner relies upon a document or documents in his possession or power, he shall file such document or documents or true copies thereof with the Petition.

8. (1) Every Petition or Reference under Rules 5(b), (c), (d) or (e) shall on being filed on received be forthwith posted before the Court for preliminary hearing and for orders as to issue of notice. Upon such hearing, the Court, if satisfied that a *prima facie* case has been made out for issue of notice, may issue such notice to the Contemnor and, if not so satisfied may dismiss the petition.

(2) the Court may, if it thinks it absolute necessary to do so, and where the Court is of the opinion that mere service of Notice, will not secure the presence of the Contemnor, alongwith issue of Notice also issue a bailable or non-bailable warrant for arrest of the Contemnor.

9. (1) Notice to the person charged shall be form I. The person charged shall, unless otherwise ordered, appear in person before the Court as directed on the date ficed for hearing of the proceeding, and shall continue to remain present during hearing till the proceedings in finally disposed off by Order of the Court.

(2) When action is initiated on a Petition or a Reference, a copy of the Petition or the Reference alongwith the annexures and Affidavit shall be served upon the person charged.

10. The person charged may file his reply by way of an Affidavit or Affidavits within 14 days from the service of the Notice or within such time as the Court may fix.

11. No further Affidavit or document shall be filed except with the leave of the Court.

12. (a) Reference under Section 15(2) of the Act may be made by subordinate Courts either *suo motu* or on an Application received by it.

(b) Before making a reference the subordinate Court shall hold a preliminary enquiry by issuing a Show Cause Notice accompanied by copies of relevant

documents, if any, to the contemnor and after hearing him the subordinate Court shall write a concise reasoned Order of Reference indicating the nature of the Contempt and the person/persons alleged to have comitted it.

13. The High Court may on its Appellate Side, entertain a Petition for Contempt of Subordinate Court. If it considers it necessary, it may direct the Subordinate Court to investigate nto question into question of fact and make a report.

14. Every Petition made by the Advocate General under sub-section (2) of Section 15 of the Act shall state the relevant facts on the basis of which it is alleged that the contempt apears to have been committed by the person/persons named therein. The Petition shall broadly summarise the relevant material justify filing of the Petition.

15. Unless otherwise ordered by the Court, four copies of the Paper Book shall be prepared in the office of the Prothonotary and Senior Master or the Registry, one for the petitioner, one for the opposite party and the remaining for the use of the Court. The Paper Books shall consist of the following documents:-

(i) Petition and Affidavits filed by the Petitioner,

(ii) A copy of, or a statement relating to, the objectonable matter or material constituting the alleged contempt.

(iii) Reply and Affidavit of the Opposite Party, if any?

(iv) Copies of Documents filed by the parties

(v) Any other documents which the Prothonotary/Registrar may deem fit to include.

16. The Court may direct the Advocate General to appear and assist the Court.

17. The Court may, if it has reason to believe, that the person charged is absconding or is otherwise evading service of notice, or if he fails to appear in person or to continue to remain present in person in pursuance of the Notice, direct a Warrant bailable or non-bailable for his arrest or may direct attachment of his property as may be specified in the Order by the Court. The Warrant shall be issued under the signature of the Prothonotary or Registrar or Officer on Special Duty as the case may be. The warrant shall be executed, as far as may be in the manner provided for execution of warrants under the Code of Criminal Procedure.

18. The Court may pass such orders as it thinks fit including Orders as to costs which may be recovered as if the Orders were a decree of the Court.

19. (a) Every Notice issued by the High Court or Designated Court to the contemnor shall be accompanied by a copy of Petition or Reference, as the case may be, together with the copies of Affidavit, if any.

(b) Such Notice issued by the High Court or Designated Court shall be signed and dated by the Prothonotary or Additional Prothonotary or Officer on Special Duty or Assistant Registrar and shall be sealed with the seal of the High Court or the concerned Court.

(c) Notice of every proceeding under this Act shall be served personally on the person charged, unless the Court, for reasons to be recorded, directs otherwise. In the case of service may be effected in the manner prescribed under the Code of Civil Procedure and Procedure and/or the High Court Rules or the Rules of the concerned Court for service of process.

20. Whenever the High Court or designated Court issue a notice, it may dispense with the personal attendance of the person charged with the contempt and permit him to appear through an Advocate and in its discretion, at any stage

of the proceeding, direct the personal attendance of such person, and, if necessary, enforce such attendance in the manner herein above provided.

21. When any person charged with contempt appears or is brought before the Court or the designated Court such person/persons may be released on bail on such terms and conditions as the Court may be deem fit and proper.

Enquiry

22. (a) Any person charged with contempt, may file Affidavit in support of his defence on the date fixed for his appearance or on such other date as may be fixed by the Court in that behalf.

(b) if such person pleads guilty to the charge, his plea shall be recorded and the Court may, in its discretion, convict him thereon.

(c) If such person refuses to plead or does not plead, or claims to be tried or the Court does not convict him on his plea of guilt, it may determine the matter of the charges either on the Affidavits filed or after taking such further evidence as it deems fit.

23. The Rules contained in Bombay High Court Rules pertaining to grant of copies, process fees and translation of documents and such other matters in respect of which no provision is made in the Rules shall *mutatis mutandis* apply to the proceedings in the High Court and designated Court.

24. Every Petition or reference in respect of Civil contempt including Civil contempt of a subordinate Court shall be heard and disposed of by a single Judge.

25. (a) In case of contempt arising out of a proceeding on the Original Side of the High Court, the petition shall be on the original Side of the High Court.

(b) In case of contempt arising out of a proceeding on the Appellate Side of the High Court, the Petition shall be filed on the Appellate Side.

(c) Petitions or Reference for Contempt of Subordinate Courts shall be filed on the Appellate Side.

(d) In case of contempt arising out of proceeding before the Designated Court, the petition shall be fild before the Designated Court. All the rules herein shall apply *mutatis mutandis* in respect of Contempt of the Designated Court.

PART III

26. Where a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a Warrant of Commitment and detention shall be made out under the signature of Prothonotary or Registrar or Officer on Special Duty as the case may be".

NOTES

Allegations against Judges of High Court, Bombay : Contempt of the Court : Supreme Court observed that throwing chappals at Judges even at Supreme Court : Sec.14 of the Contempt of the Courts Act, 1971 : The petitioners were asked to withdraw the allegations made, they refused to do so and submitted that they stood by the said averments and strongly urged the Court to issue process to arrest the 12 Judges of the High Court of Bombay. On 10.9.2008, before the Bench presided over by Dr. Justice Arijit Pasayat, while the writ petitioners appeared in person, the respondents were duly represented by Counsel and after hearing the petitioners, the Court was of the view that the Show Cause Reply was equally contumacious and some action was required to be taken against the petitioners for contempt of this Court. The Writ Petitions and the *suo motu* contempt proceedings were taken up for consideration on 20.3.2009. When the hearing

commenced, the writ petitioners disrupted the proceedings by using very offensive, intemperate and abusive language at a high pitch. One of the petitioners had gone to the extent of saying that the Judges should be jailed for having initiated proceedings against them and that the Judges should be punished for not taking care of their fundamental rights. One of the writ petitioners, namely, Dr. Sarita Parikh, went to the extent of throwing a footwear at the Judges. This happened in the presence of the learned Solicitor General of India (now Attorney General for India), two learned Additional Solicitor Generals and a large number of learned Counsel and Advocates, including the President of the Supreme Court Advocates-on-Record Association. Since the petitioners stood by what they had said and done in Court, His Lordship Dr. Justice Pasayat felt that there was no need to issue any notice and holding them to be guilty of criminal contempt of this Court, inflicted a punishment of three months' simple imprisonment on them. Having regard to the difference of opinion as to the procedure to be adopted before the petitioners could be found guilty of contempt of Court and sentenced, the matter was directed to be placed before Hon'ble The Chief Justice of India and a direction was given that the Contemnors would remain in custody till the matter could be heard by an appropriate Bench.

On the same day the Hon'ble Chief Justice constituted a Bench comprising the Hon'ble Mr. Justice B. N. Agrawal (as His Lordship then was), the Hon'ble Mr. Justice G. S. Singhvi and the Hon'ble Mr. Justice H. L. Dattu and directed the matter to be placed before the said Bench on 23.3.2009 at 2.00 p.m. In the meantime, the alleged Contemnors were enlarged on Bail and the Application for Intervention filed by the Supreme Court Bar Association was allowed. On 15.4.2009, the matters were released by the aforesaid Bench and were subsequently placed before this Bench. On 16.7.2009, when the two differing Orders dated 20.3.2009, in the Contempt Proceedings were taken up for consideration, the alleged Contemnors refused to make any submissions and insisted that the hearing of the Writ Petitions, which had already been concluded, be reopened. It was held that as far as the *suo motu* proceedings for contempt are concerned, the Supreme Court was of the view that Dr. Justice Arijit Pasayat was well within his jurisdiction in passing a Summary Order, having regard to the provisions of Articles 129 and 142 of the Constitution of India. Section 14 of the Contempt of Courts Act, 1971 does not preclude the Court from taking recourse to summary proceedings when a deliberate and willful contumacious incident takes place in front of their eyes and the public at large, including Senior Law Officers, such as the Attorney General for India who was then the Solicitor General of India.

Section 14 of the Contempt of Courts Act no doubt contemplates issuance of notice and an opportunity to the Contemnors to answer the charges in the notice to satisfy the principles of natural justice. However, where an incident of the instant nature takes place within the presence and sight of the learned Judges, the same amounts to contempt in the face of the Court and is required to be dealt with at the time of the incident itself. This is necessary for the dignity and majesty of the Courts to be maintained. When an object, such as a footwear, is thrown at the Presiding Officer in a Court proceeding, the object is not to merely scandalize or humiliate the Judge, but to scandalize the institution itself and thereby lower its dignity in the eyes of the public. In the instant case, after being given an opportunity to explain their conduct, not only have the Contemnors shown no remorse for their unseemly behaviour, but they have gone even further by filing a fresh Writ Petition in which apart from repeating the scandalous remarks made earlier, certain new dimensions in the use of unseemly and intemperate language have been resorted to further denigrate and scandalize and over-awe the Court. The writ proceedings have been taken in gross abuse of the process of Court, with the deliberate and willful intention of lowering the image and dignity not only of the Court and the judiciary, but to vilify the highest constitutional functionaries.

The Secretary General is directed to take the Contemnors into custody forthwith and to arrange to have them sent to the appropriate jail to serve out the sentence. The arrest warrants be issued against Leila David and Pavithra Murali, who are not present in Court

today, despite our directions. The Commissioner of Police, Mumbai, is directed to take steps to execute the arrest warrants and to take them into custody and to arrange for their detention in prison in terms of the Order passed on 20.3.2009.- *Leila David v. State of Maharashtra & Ors.*, **2009 (10) SCC 337 : AIR 2010 SC 862 : 2009 AIR (SCW) 6777 : 2009 (7) Supreme 154 : 2009 (13) JT 520 (SC) : 2009 (13) Scale 351 : 2010 (2) AIR Bom. R. 266 (SC) : 2009 (3) Bom.C.R. (Cri.) 449 (SC).**

Criminal contempt : Dress Code of Advocates : Appearance in person in robes of Advocate : Use of language casting persons : Breaching decorum of Court : Sec.30, Sec.34 and Sec.49 of the Advocates Act, 1961 : Sec.12, Sec.13 and Sec.23 of the Contempt of Courts Act, 1971 : Rule 1 of the Bom. HC (AS) Rules, 1960 :- The Contemnor facing Show Cause Notice for having committed criminal contempt. The fundamental right to profession is not an absolute right. The right to appear in Advocate's robes before the Court is a statutory right available only to a person who appears in his capacity as Advocate for any other party or litigant and not in his own cause. When Advocate himself is facing contempt action for his own acts of commission and omission he would appear before the Court in his individual capacity and not as an Advocate. The Practicing Advocate is not expected to appear as Advocate in his own cause. The Contemnor cannot be allowed to appear in Advocates' robes. The Respondent insisted that his matter should be taken up forthwith even though the matter did not pertain to the work which was assigned to the Learned Judge under the roster of work. The Respondent used language in Court, which was most improper and he was obstructive and rowdy. His entire behaviour was manifestly against the decorum of the Court. Kind of utterances not only tend to lower the decorum of the Court but also tend to scandalize the Court. The Acts complained of do not fall in any of the excepted category. The case of conscious attempt of committing contempt on the face of the Court. A sufficient opportunity was given to the Respondent/ Contemnor to tender unconditional apology. The Respondent/Contemnor has not only shown disinclination to tender apology, much less, unconditional apology, but has justified his conduct and behaviour. The Respondent/Contemnor held guilty of criminal contempt and is sentenced him for four months. The Respondent/Contemnor shall not be entitled to appear before High Court or any other subordinate Court until he purges of the contempt committed by him.- *High Court on its own Motion v. N. B. Deshmukh*, **2011 All MR 381 (Cri) : 2011 (113) Bom.L.R. 171 : 2011 (2) Mh.L.J. 273.**