



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT- IV**

CONT.A. (IBC)/10(MB)2026

IN

C.P. (IB)/4469(MB)2019

[under Section 425 of the Companies Act, 2013]

**UTI Employees Sai Samruddhi Co-Operative
Housing Society Ltd. Through its Secretary -
Mr. Purushottam Bandekar**

... Applicant

V/s

**PNB Housing Finance Ltd. Through its
Attorney Holder Ms. Diksha Aggarwal & Ors.**

..... Respondents

In the matter of

IDBI Trusteeship Services Limited

.... Financial Creditor

V/s

Ornate Spaces Private Limited

.... Corporate Debtor

Pronounced: 13.05.2026

CORAM:

**SHRI. ANIL RAJ CHELLAN
HON'BLE MEMBER (TECHNICAL)**

**SHRI. K. R. SAJI KUMAR
HON'BLE MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL,
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Appearances : **Hybrid**

For the Applicant : Adv. Partho Sarkar a/w Adv. Pratik Sarkar,
Adv. Ranjit Narayan R. Verma i/b Vidhi Legal

ORDER

1. This Application has been filed by UTI Employees Sai Samruddhi Co-operative Housing Society Ltd., filed through its Secretary, one Mr. Purushottam Bandekar against PNB Housing Finance Ltd., and Assets Care & Reconstruction Enterprises Ltd., the secured financial creditors, along with their advocate on record (Respondent No.3) and the counsel representing them (Respondent No.4), seeking to invoke the Tribunal's contempt jurisdiction as under Section 425 of the Companies Act, 2013.

2. **Submissions of Applicant**

2.1 The relevant facts pertaining to the filing of this Application are that this Tribunal, in IA. (Plan) No.2374/2021 in C.P. (IB)/4469(MB)2019, approved the Resolution Plan in respect of the Corporate Debtor on 06.10.2023. By virtue of the Resolution Plan approved by this Tribunal, the Applicant is required to refund the invoked bank guarantee of Rs. 27 Crore, which is an exclusive source of recovery for the secured financial creditors, including the Respondent Nos. 1 and 2 herein. The order that approved the Resolution Plan, as well as the rejection of objection IAs filed by the Applicant, are currently under appeal before the Hon'ble NCLAT, with the Respondents having entered appearance in those appeals. During the pendency of these appeals, the Respondents No. 1 and 2 have filed an application, being IA.No.517/2026, seeking enforcement and implementation of the directions contained in the order dated 06.10.2023. The Applicant contends that the pendency of appeals against the approval of the Resolution Plan was not disclosed in IA.No.517/2026, thus suppressing material facts essential for the determination of the subject matter of IA.No.517/2026. Hence, this Contempt Application.



3. Analysis and Findings

- 3.1 We have carefully considered the submissions of the Ld. Counsel for the Applicant. The records reveal that appeals against the Plan approval and the rejection of objections raised by the Applicant are presently pending before the Hon'ble NCLAT. It is also noted that, although an interim application seeking to stay the Resolution Plan was filed, no order of stay has been granted by the Hon'ble NCLAT against the implementation of the Resolution Plan approved by this Tribunal *vide* order dated 06.10.2023. Furthermore, the Applicant herein, who is a Respondent in IA.No.517/2026, has already been given an opportunity to file their reply, thereby enabling the Applicant to place on record all relevant facts necessary to raise objections to the implementation of the Resolution Plan. While the Applicant is being given an opportunity to file its reply, the Applicant has preferred to invoke the special jurisdiction of the Tribunal under Section 425 of the Companies Act, 2013, against Respondent Nos. 1 and 2, mainly on the ground of suppression of material facts.
- 3.2 One of the allegations against Respondents 3 and 4 is that they, being advocates and officers of the court, have played fraud on the court and defamed and degraded the legal profession. It is submitted by the Ld. Counsel for the Applicant that the conduct of the alleged condemners 3 and 4 also amounts to contempt of court within the meaning of Sub-clauses (ii) and (iii) of Clause (c) of Section 2 of the Contempt of Courts Act, 1971. It is the case of the Applicant that the alleged condemners fraudulently obtained favourable orders from courts and prejudiced and interfered with the due course of the judicial proceedings and obstructed the administration of justice.
- 3.3 The Ld. Counsel for the Applicant relied on the following judgments to emphasize that non-disclosure of material information and interfering with due course of judicial proceeding amounts to abuse of process of court and requires to be dealt with for contempt of court:

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Case	Citation	Subject matter
<i>Kusha Duruka v. State of Odisha</i>	(2024) 4 SCC 43	Failure of full disclosure of previous bail applications in a criminal matter
<i>K. Jayaram v. Bangalore Development Authority</i>	(2022) 12 SCC 815	Disclosure of material facts and doctrine of clean hands in allotment of specific land sites by Bangalore Development Authority
<i>Dhananjay Sharma v. State of Haryana And Others</i>	(1995) 3 SCC 757	Habeas corpus matter seeking release of one Mr. Dhananjay Sharma from the alleged illegal custody by police
<i>Municipal Corporation of Greater Bombay v. Annatte Raymond Uttanwala</i>	1985 SCC OnLine Bom 495	Party obtaining injunction by concealing prior eviction proceedings
<i>K. D. Sharma v. Steel Authority of India</i>	(2008) 12 SCC 481	Procedural impropriety and fraud in the tendering process in favour of a particular bidder and 'clean hands' theory
<i>D.P Chadha v. Triyugi Narain Mishra And Others</i>	(2001) 2 SCC	Advocate allegedly orchestrating fraudulent compromise in eviction suit without the knowledge of the client and utilising client's blank Vakalatnama and blank paper signed by the client
<i>Ratnagiri Gas & Power Private Limited v. RDS Projects Limited And Others</i>	2012 SCC OnLine SC 886	Eligibility criteria in tender process and doctrine of mala fides in administrative actions
<i>Modern Food Industries (India) Ltd. v. Sachidanand Dass</i>	(1995 Supp (4) SCC 465)	While appeal is pending, contempt proceedings should not be used to force compliance if it renders the appeal infructuous
<i>Bhaskar Laxman Jadhav v. Karamveer Kakasaheb Wagh Education Society</i>	2013 (11) SCC 531	It is for the litigant to come up-front and clean with all material facts and leave it to the Court to determine whether or not a particular fact is relevant for arriving at a decision

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<i>Samson Arthur v. Quinn Logistic India (P) Ltd Supreme Court</i>	(2016) 194 Comp Cas 100	Allegations of false, contradictory affidavits to falsely portray a financial crisis for Quinn Logistics India observing that this was a calculated effort to prevent a bankruptcy receiver from taking control of assets, constituting an abuse of the court process.
<i>Satyanarayana Rao v. State of Andhra Pradesh</i>	(2007) 6 ALT 294 (AP)	<i>Suppressio veri</i> and <i>Suggestio falsi</i>
<i>Ansal Engineering v. Tehri Hydro Development Corporation Ltd.</i>	(1996) 5 SCC 450	Contractual nature of bank guarantee
<i>Styate Bank v. Mula Sahakari Sekhar Karkhana Ltd.</i>	(2006) 6 SCC 293	Bank guarantee to be construed on its own terms and to be considered as a separate transaction
<i>Khetrabasi Biswal v. Ajaya Kumar Baral</i>	(2004) 1 SCC 317	Procedural law as well as substantive law both mandate that in the absence of a necessary party, the order passed is a nullity and does not have a binding effect
<i>Asgar Kadar Sheik v. Nagpur Central Jail</i>	2021 SCC OnLine Bom 931	Duty of lawyer to bring to the court binding precedents even if it is not in favour of the client
<i>R. v. General Commissioners for the Purposes of the Income Tax Acts for the District of Kensington, ex p Princess Edmond De Polignac</i>	(1917) 1 KB 486 : 86 LIKB 257 - 116 LT 136 (KB & CA)]	Power of court in order to protect itself and to prevent an abuse of its Process if the applicant does not disclose all the material facts
<i>Lal Bahadur Gautam v. State of U.P.</i>	2019 SCC OnLine SC 687	Duty of the parties and their counsel, at all levels, to double check and verify before making any presentation to the court.
<i>Saumya Chaurasia v. Enforcement Directorate,</i>	(2024) 6 SCC 401	Duties of advocates and legal acumen required for practising advocates

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<i>Naraindas v. Govt. of Madhya Pradesh</i>	(1975) 3 SCC 31	Making deliberate/wilful/wrong/misleading statement to obtain favourable order would prejudice/interfere with the due course of the judicial proceeding
<i>Murray & Co. v. Ashok Kr. Newatia</i>	(2000) 2 SCC 367,	Positive assertion of a fact in an affidavit known to be false cannot just be ignored.

- 3.4 On examination of the above precedents, we find that none of the above relate to the establishment of a prima facie case to issue notice to the alleged condemners in respect of contempt of court under Sub-clauses (ii) & (iii) of Clause (c) of Section 2 of the Contempt of Courts Act, 1971. Consequently, the judgements relied upon by the Applicant are not relevant to the present case. As discussed above, since certain appeals are pending before the Hon'ble NCLAT, this Tribunal also cannot consider any contempt proceeding relating to the matters being agitated before the Hon'ble Appellate Tribunal.
- 3.5 When the alleged condemners were already aware that the Applicant would have the opportunity to file a reply in IA. No. 517/2026, it is difficult to assume that the Respondents wilfully suppressed the information regarding the pendency of appeals from the Tribunal. If the alleged condemners have fraudulently obtained any order from the NCLT, the orders are always subject to the final decision. Thus, we do not find sufficient initial evidence for interference with the due course of the judicial proceeding. We feel that the Applicant is attempting to misuse the judicial forum by filing this Application in order to put undue pressure on the alleged condemners, and their counsel for lawfully discharging their professional duty as advocates. Moreover, the special jurisdiction under Section 425 of the Companies Act, 2013, cannot be invoked in a routine or casual manner when the Applicant has the opportunity to disclose any pertinent facts or circumstances that they consider material.

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ORDER

In view of the above, the Applicant has not succeeded in establishing a prima facie case of wilful suppression of facts or interference with the due course of judicial proceeding before this Tribunal or obstruction to the administration of justice in any manner by the alleged condemners. Given these considerations, we are not inclined to invoke the special jurisdiction under Section 425 of the Companies Act, 2013. As a result, the **Contempt Application /10(MB)2026 is summarily dismissed having found unmaintainable.**

Sd/-

ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-

K. R. SAJI KUMAR
MEMBER (JUDICIAL)