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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision : 13.08.2026# **CNR No. DLHC010344722026**+ **FAO (COMM) 218/2026****NILESH DHANUKAR**

.....Appellant

Through: Ms. Rajeshwari Hariharan, Senior Advocate with Mr. V.K. Puri, Ms. Anshima Puri, Ms. Shreya Gagneja, Advocates.

versus

SIEMENS INDUSTRY SOFTWARE INC & ANR.Respondents

Through: Ms. Aarshia Behl, Ms. Shruti Baid, Ms. Aashi Sharma and Mr. Bhavya Manda, Advocates.

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****V. KAMESWAR RAO, J. (ORAL)****CM APPL. 49736/2026(condonation)**

1. For the reasons stated in the application, the delay of 43 days in filing the appeal is condoned.
2. The application is disposed of.

FAO (COMM) 218/2026 & CM APPL. 49733/2026(Stay)

3. The present appeal has been filed against the order dated 25.07.2026 passed by the learned District Judge (Commercial Court-02), South District,



Saket Courts, New Delhi (the ‘Trial Court’, hereinafter) in Contempt Petition No.6/2026. The underlying commercial suit, CS (COMM) No.470/2023, was instituted by the respondent-plaintiff, alleging corporate infringement concerning their proprietary software known as NX. On 10.08.2023, the Trial Court granted an *ex parte ad interim* injunction restraining the appellant from utilizing the said software.

4. Pursuant to an application under Order XXVI Rule 9 of the Code of Civil Procedure, 1908 (CPC), the Trial Court appointed a Local Commissioner to inspect the premises of the appellant to verify compliance with the injunction. During the inspection, conducted on 17th and 18th August, 2023, the Local Commissioner noted the presence of approximately 25 to 35 computer systems, some of which were found to be running the NX software. The report of the Local Commissioner stated that the employees of the appellant surrounded the inspection team, obstructed judicial process, and attempted to clandestinely transfer eight CPUs and three hard disks to adjoining premises to conceal evidence of infringement. The Local Commissioner also stated that he was physically obstructed from carrying out the Commission.

5. Subsequently, the respondents initiated the contempt petition and a general disobedience of the interim order, obstruction of the Local Commissioner, and unauthorised tampering with electronic hardware. By way of the impugned order dated 18.05.2026, the Trial Court held that the appellant is guilty of civil contempt, observing that the conduct of the appellant during the pendency of the proceedings, specifically the assertion of adversarial defenses in attempt to blame the legal counsel, demonstrated a



lack of genuine remorse, and consequently, the apology tendered by the appellant at that stage was rejected and he was convicted and sentenced to undergo detention in a civil prison for a period of two months.

6. Ms. Rajeshwari Hariharan, learned senior counsel for the appellant stated that the primary ground of challenge in this appeal is that once the suit is decreed, an application under Order XXXIX Rule 2A CPC does not survive. Such an application, by its very nature and design, is a proceeding ancillary and subordinate to the suit in which it is filed, and its whole object is to enforce compliance with interlocutory injunctions granted under Order XXXIX Rules 1 and 2 CPC during the pendency of the suit. It has no independent existence, cause of action, or jurisdictional foundation apart from the suit itself. As such, the continued maintainability of such an application is inseparably linked to and coextensive with the pendency of the suit. Once the suit stands finally decreed, the interlocutory injunction on which the contempt application was founded ceases to have any existence. In this case, the suit, having culminated in a decree, is no longer pending, and the interim injunction that the application sought to enforce no longer survives as a distinct free-standing order capable of separately being enforced or punished for breach. What survives now is only the decree itself, which is enforceable exclusively through the machinery prescribed for execution of decrees under Order XXI Rule 32 CPC.

7. She stated that in the present case, the suit was finally decreed on 19.02.2026, but the Trial Court proceeded to record a finding of guilt on 18.05.2026 and to impose sentence on 25.07.2026, both dates falling well after the decree. By that stage, the application under Order XXXIX Rule 2A



CPC had already become infructuous and had ceased to survive in law. The Trial Court accordingly had no jurisdiction to adjudicate upon or to impose any coercive consequence pursuant to an application that no longer subsisted, and as such, the impugned findings of guilt and sentence are liable to be set aside.

8. She also stated that the Trial Court erroneously treated the non-payment of damages awarded in the main suit as an aggravating circumstance. Enforcement of money decree is governed by execution provisions of the CPC. Unless payment formed part of a specific injunction alleged and proved to have been breached, non-payment could not independently constitute or aggravate disobedience under Order XXXIX Rule 2A CPC. Further, the fact that the appellant offered to pay or deposit the decretal amount was relevant to the present compliance and mitigation. The Trial Court rejected that offer merely as an attempt to avoid punishment without examining whether payment, security or deposit could adequately protect the respondents and secure obedience.

9. It is also her case that the personal attribution of the appellant's employees' alleged obstruction of the Commission on 17.08.2023 rests substantially on the circumstances they spoke to the appellant on telephone before the Local Commissioner left the premises. The impugned orders do not identify the precise instruction allegedly given by the appellant, the person who heard it or the evidence establishing the appellant's direct obstruction. She stated that detention in civil prison is a personal coercive consequence, before imposing which, the court was required to record a clear finding based upon cogent evidence that the appellant personally



directed, authorized or knowingly continued the obstruction. Mere managerial control or existence of telephone call could not substantiate for proof of deliberate personal disobedience.

10. That apart, she has also stated that even where breaches are established, the court must examine the nature and duration of the breach, whether it is continuing, whether compliance can presently be secured, and whether a less restrictive measure would adequately vindicate the order. According to her, the impugned order does not comparatively assess the available alternatives, including an undertaking, monetary deposit, costs, preservation and inspection of relevant systems, supervised technical verification, or attachment, and does not explain why those measures would be insufficient.

11. It is averred that the appellant's apology and remedial steps were relevant to the necessity and nature of any continuing coercive relief, even if they did not automatically erase the alleged breach. The court erred in rejecting those circumstances altogether without examining whether continued detention was required to secure obedience.

12. She has submitted that even if the finding of breach is maintained, the direction for detention deserves to be set aside and substituted by an appropriate deposit, costs, undertaking, independent technical audit, or other compliance-oriented conditions or community service.

13. It is also submitted that the impugned order dated 25.07.2026 expressly relies, as an independent basis for imposing the sentence, on the allegation that the appellant continued to use the respondent's software even



after the pronouncement of the judgment/decreed in the suit. Assuming that any such post-decreed violation occurred, it could at the highest constitute non-compliance with the final decreed passed by the Trial Court, and not a breach of any subsisting interim injunction granted under Order XXXIX Rules 1 and 2 CPC during the pendency of the suit.

14. The jurisdiction under Order XXXIX Rule 2A CPC is confined both in text and in object to the enforcement of ad interim and interim orders passed under Order XXXIX Rules 1 and 2 CPC during the pendency of the suit, and does not extend to the conduct alleged to have occurred after the suit itself stood finally decided. In any case, upon the pronouncement of the main judgment and passing of the decreed, the *ad interim* injunction dated 10.08.2023 either merged into the final relief granted by the decreed or stood superseded by the decreed, and in either event, ceased to survive as an independent interlocutory order capable of being enforced under Order XXXIX Rule 2A CPC.

15. The enforcement of a decreed for injunction is thereafter governed exclusively by Order XXI Rule 32 CPC, which prescribes its own distinct machinery for execution, including attachment of property, detention in civil prison as an execution remedy, and the safeguards attendant thereon. The Trial Court, by continuing to invoke Order XXXIX Rule 2A CPC in respect of the alleged post-decreed conduct, has impermissibly conflated two independent and mutually exclusive legal regimes: one interlocutory and coercive in aid of a pending suit, the other executory and remedial in aid of a final decreed.



16. By treating alleged post-decree conduct as an additional foundation for sentence while in a proceeding initiated on an entirely different factual premise, i.e., obstruction of the Local Commissioner in August 2023, the appellant was denied the specific notice, opportunity, and graduated remedial process to which he was entitled under Order XXI Rule 32 CPC before any question of detention in civil prison could arise on that ground.

17. Admittedly, no execution petition under Order XXI Rule 32 CPC was ever instituted by the respondents in respect of the alleged post-decree use of the software, nor was any notice issued to the appellant calling upon him to show cause as to why the decree for injunction ought not be executed against him. In the absence of such a petition, notice, and opportunity, the Trial Court could not, in the guise of exercising jurisdiction under Order XXXIX Rule 2A CPC, treat unproved and untested post-decree conduct as an aggravating factor warranting the maximum coercive consequence of detention in civil prison.

18. In any event, the application under Order XXXIX Rule 2A CPC was instituted on 18.09.2023 during the pendency of the suit and was confined to the specific pre-decree breaches of the interim injunction dated 10.08.2023 pleaded therein, arising from the inspection conducted on 17th and 18th August 2023. Its scope was limited to that pleaded breach and could not extend to any subsequent unpleaded conduct. Any conduct alleged after 19.02.2026, i.e., when the suit was finally decreed, pertained, at the most, to non-compliance with the final decree and not to breaches of a subsisting interlocutory order. Such conduct was enforceable exclusively through proceedings under Order XXI Rule 32 CPC.



19. She submitted that the Trial Court erred in law and exceeded its jurisdiction by enlarging the scope of a pending Order XXXIX Rule 2A application, confined to the pre-decree breaches pleaded in September 2023, to encompass three extraneous matters: (i) the appellant's post-decree conduct; (ii) non-payment of damages awarded by the decree; and (iii) an oral allegation of continued software use raised for the first time at the sentencing hearing. None of these were pleaded or particularised in the application, and the court had no jurisdiction to travel beyond it.

20. She also stated that the impugned order dated 18.05.2026 merely reproduces the allegation that on 17.08.2023, the Manager was asked to call the appellant and responded that “*no one would come*”. It does not find that the appellant was present at the premises, personally prevented the Commission, instructed any employee to obstruct the Local Commissioner, directed the removal of CPUs or hard drives, or otherwise participated in the alleged incident. Liability under Order XXXIX Rule 2A CPC is personal and *quasi-criminal*; it cannot be imposed vicariously upon a director or officer merely because employees of the company are alleged to have acted improperly.

21. It is also submitted that the Trial Court *vide* order dated 18.05.2026 concluded that the present facts were “similar” to the facts in the judgment of this Court in *Autodesk Inc. v. Arup Das, CCP No. 49/2011 in CS(OS) 947/2011* without examining the material distinctions, including the order allegedly breached, the personal presence and conduct of the parties, the statements made before the Local Commissioner and the evidentiary material connecting the present appellant with the obstruction. Penal liability



cannot be imposed by factual analogy. The Court was required to establish the appellant's guilt on the evidence in the present proceeding.

22. She has submitted that without prejudice to the above submissions, even if the breach is held to stand, this Court may take a reformatory approach to the appellant who has tendered an unconditional apology, and the punishment of imprisonment imposed on the petitioner may be revoked and substituted with imposition of costs and non-custodial measures such as community service.

23. On the other hand, Ms. Aarshia Behl, learned counsel appearing for the respondents justified the order passed by the Trial Court under Order XXXIX Rule 2A CPC by stating that the subject matter of the application is primarily relatable to the conduct of the appellant during the execution of the Commission by the Local Commissioner appointed by the Trial Court on 10.08.2023. She stated that the respondents herein filed the Civil Suit for permanent injunction restraining the defendants from infringement, copyright, rendition of accounts, profits and damages etc. In the suit, an application under Order XXVI Rule 9 CPC was filed as it is the case of the respondents that M/s. Om Sai Moulds and Plastics, defendant no.3 in the suit has been using unlicensed and pirated versions of the software of the respondent. The Trial Court had appointed Mr. Chittaranjan Hati as the Local Commissioner, to visit the premises of the defendants in the suit to make an inventory of the usage of the respondents' software used at the premises and to seize the computer systems which were allegedly using the unlicensed and pirated software of the respondents.



24. She has narrated that the counsel and representative of the respondent – Siemens, along with a the technical expert reached the premises located at D-111, MIDC Area, Ambad, Nashik, Maharashtra to execute the Commission. The Local Commissioner met Mr Pankaj Patil, who introduced himself as the Manager of the factory. The order of the Court was served upon him, however, he refused to provide any acknowledgment of the same. The Local Commissioner noted in his Report that there were around 25-30 computer systems, some were visibly using the respondent's software namely "NX". When the Local Commissioner requested to call the appellant – Nilesh Dahanukar, Mr Patil informed that "*nobody will come*". Thereafter, around 50-60 employees of the appellant gathered on the spot and surrounded the Local Commissioner and his team, and started pressurising the Local Commissioner and the team to exit the premises. It is the case of the respondent that these people pushed the Local Commissioner and manhandled his team, despite the Local Commissioner making a request that he be allowed to carry out the duties as per the order of the court.

25. Some of the relevant averments made in the petition under Order XXXIX Rule 2A CPC can be seen as under:-

"8. That assessing the hostility of the employees (Alleged Contemnor Nos. 2 to 9) of the Respondent Company, Ms. Aarshia Behl, the Counsel for the Plaintiffs tried to call the Local Police. That as the police was not reachable over phone, learned Local Commissioner asked Ms. Aarshia Behl to go to the police station and seek immediate assistance to execute the order of this Hon'ble Court, while the learned Local Commissioner and the rest of the team remained at the premises. That Ms. Shruti Baid, counsel for the Plaintiffs captured video and took photographs of the incident.



9. That in the meantime two police officials from Police Chowki namely Mr. Uday Deshmukh, Constable and Mr. Yogeshwar Jadhav, Constable reached the factory premises. That the learned Local Commissioner informed the police constables the purpose of his visit and asked them to assist him execute the order of this Hon'ble Court, however they refused to do so and said that they are at the premises to only maintain law and order.

10. That at around 1.15 pm the learned Local Commissioner and members of the team noticed that the employees of the Respondent Company were standing near the wall of the premises touching the adjacent company located at Plot No 112. That the learned Local Commissioner caught the employees of the Respondent Company passing CPUs, hard disks/drives etc. from the Respondent Company's premises to the adjoining company's premises. That the learned Local Commissioner and members of the team went to the adjoining premises and asked the watchmen to open the gate. The learned Local Commissioner observed that 8 CPUs and 3 hard disks were transferred from the Respondent Company's premises to Plot No. 112 i.e. M/s Gargi Parking Industries. Looking at the commotion, the owner of company at Plot No. 2 came and told the learned Local Commissioner that the employees of the Defendant Company have illegally kept the CPUs and hard disks at his premises without his knowledge and permission.

11. That upon being caught in the act, the employees of the Respondent Company got aggressive. At this stage, the learned Local Commissioner decided to go to the police station along with few members of the team and join Ms. Aarshia Behl in order to seek police assistance instead of staying at the Defendant premises. That learned Local Commissioner was informed by Ms. Aarshia Behl upon reaching police station that she has already met Mr. Sandeep Pawar, Sr. Inspector, who informed her that this Hon'ble Court's order dated 10th August 2023 does not specifically direct the police to assist the learned Local



Commissioner in execution of the order. The learned Local Commissioner was apprised that the employees of the respondent Company were present in the police station since she reached and have been talking to the police in local language i.e. Marathi. The learned Local Commissioner was further apprised that Mr. Sandeep Pawar, Sr. Inspector was receiving multiple calls from Alleged Contemnor No. 1 Mr. Niilesh Dahanukar and his counsel Mr. Sidharth Verma and that Mr. Sandeep Pawar, Sr. Inspector has shared Alleged Contemnor No. 1 and his counsel's number with her and vice versa. That learned Local Commissioner was also informed that Ms. Aarshia Behl after discussion from Mr. Sandeep Pawar, Sr. Inspector spoke to the counsel for Alleged Contemnor No. 1 and has supplied the copy of the order on WhatsApp and also spoke to the Alleged Contemnor No. 1 and asked him to comply with the orders of this Hon'ble Court and allow the learned Local Commissioner to execute the order. However, the Alleged Contemnor No.1 was not ready to cooperate with the learned Local Commissioner and has caused unnecessary delays and obstructions through his men. The counsel for the Plaintiff also met Mr. Manohar Karode, the Chowki in charge, who also refused to intervene and assist the learned Local Commissioner in executing the order.

12. At around 3 pm the Alleged Contemnor No. 1 came to the Police Chowki and met the learned Local Commissioner. The learned Local Commissioner once again explained the order of this Hon'ble Court to the Alleged Contemnor No.1 and asked him to let allow the execution of the order, however, the Alleged Contemnor No.1 imposed superficial conditions on the learned Local Commissioner and the team including but not limited to the following:

- i. Only Local Commissioner will be allowed to enter the premises.*
- ii. Self-attested copies of the Identity Cards issued by the Govt. of the entire team will have to be shared with him.*



iii. No electronic device will be allowed inside the premise.

iv. Plaintiffs will give an undertaking and sign a contract that they will not publicize the findings of the Learned Local Commissioner.

v. Plaintiffs will further sign an undertaking that the data related to infringement, if any, will not be shared to anyone.

vi. Any sort of photography/videography of the premises will not be permitted.

vii. Pen drive will not be used for collection of any sort of data/evidence.

viii. No Screenshots of evidence will be allowed.

ix. Only one technical expert will be allowed to enter the premises and only one computer will be checked in presence of the Respondent Company's employees.”

26. Ms. Behl stated that as can be seen from the above and the Report of the Local Commissioner, the conduct of the appellant clearly shows that he not only harassed the Local Commissioner and the team comprising female lawyers, but also did everything possible in his capacity to obstruct the execution of the Commission and preservation of the evidence in the suit. This is evident from his attempt to deny access to the premises, and the superficial conditions put and also filing of the false police complaint against the Local Commissioner, and the respondents' team.

27. Having heard the learned counsel for the parties and perused the record, the short issue which arises for consideration is whether the Trial Court was justified in holding the appellant herein guilty of civil contempt under Order XXXIX Rule 2A CPC, and sentencing him to undergo detention in civil prison for two months.



28. By way of order dated 10.08.2023, the Trial Court had enjoined the defendants in the suit and all others acting for and on behalf of the defendants from reproducing/selling/storing/installing and/or using pirated/unlicensed software of the plaintiffs including the software 'NX'. By way of the same order, the court had appointed the Local Commissioner under Order XXVI Rule 9 CPC to inspect the premises of the defendants and *inter-alia*, inventorise and seize any computer systems, hard disks, CD/DVD etc. found to be using the software.

29. The crux of the impugned order passed by the Trial Court by which the appellant has been held guilty, can be seen from paragraphs 5-8, as under:-

“5. On 16.04.2026, Ld. Counsel for respondent stated that respondents were willing to tender unconditional apology, while Ld counsel for petitioner stated that petitioner would maintain the petition as respondent not only did not allow the proceedings to go on but also continued to infringe the copyright of petitioner despite orders of the court. She stated that court has passed a Judgment against the respondent holding that they were in fact infringing the copyright of the petitioner before and after passing of interim order which in itself is sufficient to show that they are in contempt of the court.

6. In the Judgments cited by counsel for respondent, in most of cases, the courts were of the view that the contemnors were having a feeling of genuine remorse and regret which was accepted by the court in accepting the unconditional apology. On the contrary in the present case, the respondents did not show any remorse. They challenged the LC report. In fact the respondent no. 1 went a step ahead and filed a case against LC and the petitioner's team. It was only at the stage of his cross examination that he withdrew



the allegation against the LC rather did not press them. The respondent was anything but apologetic or remorseful of their conduct.

7. Ld. counsel for petitioner has placed reliance upon Autodesk INC (supra). In the cited judgment, the respondent of the said case did not allow the LC to conduct the proceedings and the contemnors tried to tender unconditional apology, the court held that

“The apology tendered by the two respondents does not inspire confidence and is merely an endeavor of the respondents to get away scot-free for their deliberate and willful defiance of the orders of the Court. The apology tendered by the two respondents is not to the satisfaction of this Court. The stand taken by the two respondents in their affidavits of apology is at variance with the stand taken by them before the Local Commissioner and in their respective replies. They now, for the first time, claim that they acted on advice given to them. However, it is not disclosed as to on whose advice they so acted. They do not disclose as to when and how this advice was rendered. For the first time, they claim that all the hardware and software assets at the premises in question belonged to Advance Valves Global. No such statement appears to have been made before the Local Commissioner, or even in their replies. Even with the affidavits of apology, apart from their ipse dixit, there is no material produced to support or substantiate the said plea. The statements of the respondents that they have the highest and abiding faith in the institution of this Court, or that they did not intend to do anything which would undermine the dignity and prestige of this institution does not inspire confidence. Pertinently, even at this stage, the respondents do not state that they are, even now, willing to comply with the order of the Court and grant inspection to the Local Commissioner.”



8. The facts of the case are similar to the facts in the present case. The respondent had no regret about his behaviour and conduct all through the proceedings. Since the application was not considered immediately on filing, he went on with his defence stating that he had valid licence and kept on using the injuncted infringing softwares. Respondent made unfounded allegations against Ld. LC which he later withdrew. It is stated by counsel for petitioner that the respondent has not disputed the Judgment passed by this court on merit except for on damages and has placed copy of order dated 10.04.2026 on record. Ld. Counsel for the respondent argued that the counsel for respondent gave a statement regarding not pressing the appeal except for on damages before Hon'ble High Court without his instructions. The respondent therefore, is trying to act smart even at this stage and did not hesitate in leveling allegation on his counsel to say that he made statement without instructions before Hon'ble High Court. There is thus, no remorse in the unconditional apology being offered by respondent as projected in the affidavit of unconditional apology. The unconditional apology of contemnor Nillessh Dhanukar is rejected. He is held guilty of civil contempt. He is directed to appear in person for the sentence on contempt."

30. In the order of sentence dated 25.07.2026, in paragraph no.7 onwards, the Trial Court has stated as under:-

"7. If the Courts cannot enforce their own orders or if the same are violated like in the present case without any deterrence, the first and foremost casualty is the faith of people which holds the system in place. The court does not think that justice would be done to the petitioner whose software the contemnor misused before the filing of suit, subsequent to filing of suit and passing of order and even subsequent to the judgment having been passed against him.

The conduct of the contemnor is very important in as



much as he does not hesitate in leveling allegation on his counsel of giving a statement in the court without his instructions in the appeal filed against the judgment.

8. It is pointed out by Ld. Counsel for the petitioner that the contemnor has till date not paid the damages awarded by this court. Ld. Counsel for contemnor stated that contemnor shall pay the damages today itself. This again is a proposal given in a situation of avoiding somehow the punishment, which comes against him u/o 39 Rule 2-A CPC. Order 39 rule 2A CPC lays down that in the case of willful disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court may order the property of the person guilty to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months.

9. In view of above, disobedience of the order, right from the time of interfering with the Local Commissioner's proceeding, to filing a false case against the local commissioner, to continue using software of plaintiff despite order and despite the judgment, was willful disobedience.

10. Consequently, the contemnor Nilesch Dhanukar is hereby sentenced to undergo detention in civil prison for a period of two months. Ld. Counsel for the contemnor prays that the order be deferred for some time to enable the contemnor to file an appeal against the order. The contemnor Nilesch Dhanukar shall surrender in the Tihar Jail in compliance of the order to serve the sentence after 10 days from today. The applicant shall deposit the sustenance amount for the duration of civil imprisonment as per law.

Contempt petition is disposed off accordingly. File be consigned to record room."

31. From the above, it is seen that what prevailed with the Trial Court was that the appellant had no regret about his wilful disobedience of the



order of the court.

32. The report of the Local Commissioner reveals the following:-

- i. On reaching the defendants' premises, the Local Commissioner served the order of the court and sought to commence the inspection. The appellant was absent and the factory manager initially refused to acknowledge the order.
- ii. Approximately 50-60 employees gathered, shouted at and physically obstructed the Local Commissioner and accompanying persons, resorting to pushing and pulling them.
- iii. During the commotion, employees began removing CPUs and computer systems from the office. Around 25-30 computers were observed, with approximately 22 counted, but an exact count could not be completed.
- iv. The Local Commissioner sought police assistance, but the police officials initially present did not assist in implementing the Court's order.
- v. The Local Commissioner and others subsequently discovered 8 CPUs and 3 hard disks placed in an adjoining property (Plot No. 112). The owner of that property stated that the defendants' employees had placed them there without his permission.
- vi. The Local Commissioner then approached police authorities again for assistance. After initially being directed between different police authorities, formal police permission/assistance was ultimately obtained from the DCP Crime, Nashik on 18.08.2023.



vii. With police personnel accompanying them, the Local Commissioner returned to the defendants' premises. The appellant herein was present at the gate of the premises, and stated he would permit the Local Commissioner to proceed, only subject to several conditions and restrictions, including limits on the number of persons/technicians, production of identity documents, prohibition on mobile phones, pendrives, photographs, server access and videography.

viii. These conditions were not accepted by the plaintiffs, and the appellant and his employees ultimately did not permit the Local Commissioner and accompanying persons to enter the factory. The factory gate was closed, deliberately preventing execution of the Commission.

ix. Consequently, the Local Commissioner concluded the proceedings at approximately 3:22 P.M. without conducting the intended inspection/seizure.

33. It is also noted that the appellant herein also filed a complaint before the police authorities under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC/ST Act') against Local Commissioner and the team of the respondents. Though the said complaint was later withdrawn by him, this further goes to show that the appellant had resorted to every means to browbeat the Local Commissioner and the team of the respondents so that they are unable to carry out the Commission in terms of the order of the Court.

34. Even the very fact that the appellant had submitted his apology would



make it clear that the appellant has really not contested as to what transpired when the Local Commissioner went to execute the Commission. The appellant, despite being informed that the Commission is sought to be executed pursuant to the directions of the Trial Court, deliberately obstructed the same, physically manhandled the Local Commissioner and the persons accompanying him, and even asked them to leave the premises. Therefore, there is a clear and obvious disobedience of the order dated 10.08.2023.

35. The conduct and behaviour of the appellant becomes more appalling by the fact that pursuant to obstructing the Commission, he filed a police complaint against the Local Commissioner and persons accompanying him under the provisions of the SC/ST Act, which was later withdrawn. A Local Commissioner appointed for a particular purpose by the Court is an extended arm and agent of the Court for that purpose. The Commissioner acts as the eyes and ears of the Court outside its precincts. Any attempt to obstruct the Local Commissioner from lawfully carrying out orders of the Court amounts to obstruction of justice. Such conduct is required to be taken very seriously so that the rule of law is upheld. The Court is duty-bound to ensure that the consequence of such conduct must be such that it would act as a deterrent to persons acting in a manner similar to the appellant.

36. We find that the Trial Court is justified in relying upon the decision of this Court in the case of *Autodesk Inc & Another v. Arup Das & Others*, **CS (OS) No.947/2011** decided on **22.10.2013** wherein it was held:-

“26. A Local Commissioner appointed by the Court is an extended arm and agent of the Court. The Local



Commissioner is appointed by the Court because a Judge, normally, cannot personally step out of the precincts of his Court to see for himself the situation prevailing at the relevant site. Therefore, a Local Commissioner is appointed to act as the eyes and ears of the Court so that local investigation could be carried out for the purpose of elucidating the matters in dispute. In matters involving allegations of infringement of intellectual property rights, the execution of the local commission and the report furnished by the Local Commissioner assumes great significance, as the breach of copyright in softwares-which resides in electronic form, may go undetected unless computer systems of the defendant are examined and investigated before the defendant gets a chance to destroy the evidence of use of such software by deleting the software from the computer system.

27. xxx xxx xxx

28. *"Civil Contempt" is defined in Section 2(b) of the Contempt of Courts Act, 1971 to mean "willful disobedience to any judgment, decree, direction, order, writ or other process of a Court or willful breach of an undertaking given to a Court". The respondents have willfully disobeyed the orders of this Court by not permitting the Local Commissioner to execute her Commission at the address in question. The present is not a case where the Local Commissioner desired to carry out the Commission/ investigation at a wholly unrelated premises. Firstly, the premises itself was named in the order of the Court, authorizing the Local Commissioner to inspect the same. Secondly, the premises was the premises of the defendant company, inasmuch, as it was their Corporate Office and the Design and Development Centre for the check valves, butterfly valves and balancing valves manufactured by the defendant company - as is evidenced from the ISO certificate. The refusal of the respondents to allow the execution of the Local Commission is clearly deliberate, willful and mala fide.*



29. *The respondents have further compounded their disobedient and defiant conduct by exhibiting the audacity to even now not come out truthfully before this Court. The respondents continue to falsely insist, even in the face of overwhelming evidence on record - which includes their own printouts and the ISO certificate, that the address visited by the Local Commissioner, i.e. 142 A & B, Noida Special Economic Zone, Phase II, Noida -201 305, is not the Corporate Office of defendant No.2, as also the Design and Development Centre for check valves, butterfly valves and balancing valves manufactured at the sites of Advance Valves Pvt. Ltd at Sites 1 & 2 mentioned in the certificate issued by the Bureau Veritas. Therefore, the respondents are guilty of committing civil contempt in terms of Section 2(b) of the Act. However, the aforesaid conduct cannot be termed as criminal contempt under Section 2(c) of the Act.*

30. xxx xxx xxx

31. *The apology tendered by the two respondents does not inspire confidence and is merely an endeavor of the respondents to get away scot-free for their deliberate and willful defiance of the orders of the Court. The apology tendered by the two respondents is not to the satisfaction of this Court. The stand taken by the two respondents in their affidavits of apology is at variance with the stand taken by them before the Local Commissioner and in their respective replies. They now, for the first time, claim that they acted on advice given to them. However, it is not disclosed as to on whose advice they so acted. They do not disclose as to when and how this advice was rendered. For the first time, they claim that all the hardware and software assets at the premises in question belonged to Advance Valves Global. No such statement appears to have been made before the Local Commissioner, or even in their replies. Even with the affidavits of apology, apart from their ipse dixit, there is no material produced to support or substantiate the said plea. The statements of the respondents that they have the highest and abiding faith in the institution of this Court, or that they*



did not intend to do anything which would undermine the dignity and prestige of this institution does not inspire confidence. Pertinently, even at this stage, the respondents do not state that they are, even now, willing to comply with the order of the Court and grant inspection to the Local Commissioner.

32. I may hasten to add here that even if such an offer were to be made, it may prove futile for the purpose of the plaintiffs, as the defendant company and the respondents herein have had sufficient time to cover up their alleged illegalities in infringing the plaintiffs' copyrights. For the apology to be considered genuine and acceptable, it should come at an early stage. Consequently, the apology tendered by the two respondents is rejected. The respondents are held guilty of civil contempt.”

37. The above factual conspectus makes it apparent that there is an obvious disobedience/breach of the order of the Trial Court dated 10.08.2023. The appellant had wilfully and consciously impeded the Local Commissioner from carrying out the directions of the Court.

38. The case of the appellant is that since the main suit has culminated in a decree, the application under Order XXXIX Rule 2A CPC no longer survives and the order dated 10.08.2023 cannot stand as a distinct order capable of separately being enforced or punished for breach. According to her, what survives now is only the decree itself, which is enforceable exclusively through the machinery prescribed for execution of decrees under Order XXI Rule 32 CPC. To buttress her argument, she has relied upon the judgment of the Supreme Court in **Kanwar Singh Saini v. High Court of Delhi, (2012) 4 SCC 307**. We are not in agreement with this submission. The contempt petition was filed on 18.09.2023, much before the decree



dated 19.02.2026. The disobedience of the order dated 10.08.2023 does not get nullified by the fact that a decree has been passed in the suit. In fact, the submission of Ms. Behl is that the suit has been decreed in favour of the respondents and against the appellant (and other defendants), and even from the final judgment dated 19.02.2026 of the court, it is clear that the appellant and his company have been unauthorisedly using the software of the respondent even after the interim order dated 10.08.2023, in breach of the injunction.

39. Be that as it may, we are of the view that the conduct of the appellant violating the order of the Trial Court does not get erased by way of a final decree. Though any action for disobedience of the final judgment/decreed itself can only be subject to the provisions of Order XXI Rule 32 CPC, there is no bar for the Trial Court to continue with the contempt petition already filed for disobedience of its interim order. In fact, the Supreme Court in **Samee Khan v. Bindu Khan, (1998) 7 SCC 59**, followed in **Lavanya C. and Anr. v. Vittal Gurudas Pai, 2025 INSC 325**, has categorically held that even if an interim injunction order is subsequently set aside, the disobedience of that order does not get nullified. Relevant part of the judgment reads as under:

“12. But the position under Rule 2-A of Order 39 is different. Even if the injunction order was subsequently set aside, the disobedience does not get erased. It may be a different matter that the rigour of such disobedience may be toned down if the order is subsequently set aside. For what purpose is the property to be attached in the case of disobedience of the order of injunction? Sub-rule (2) provides that if the disobedience or breach continues beyond one year



from the date of attachment, the court is empowered to sell the property under attachment and compensate the affected party from such sale proceeds.”

40. In the case of **Kanwar Singh Saini (supra)** relied upon by Ms. Rajeshwari, the Supreme Court held that the proceedings under Order XXXIX Rule 2A CPC are available only during the pendency of the suit, and only if there has been an interim order under Order XXXIX Rule 1 or Rule 2 CPC. In that case, admittedly, there was no interim order passed by the court, and the issue was with regard to an undertaking given to the Court during the pendency of the suit, on the basis of which the suit itself has been disposed of. It is in such a circumstance that the Supreme Court held that it is in fact proceedings under Order XXI Rule 32 CPC which would be applicable to that case. The said judgment is distinguishable on facts, as in the present case, the disobedience is of an order passed by the Trial Court under Order XXXIX Rules 1 and 2 CPC.

41. Ms. Rajeshwari has also argued that the Trial Court erred in including three extraneous matters in its sentencing order which was not part of the pleadings in the contempt petition- (i) the appellant's post-decree conduct; (ii) non-payment of damages awarded by the decree; and (iii) an oral allegation of continued unauthorised software use raised for the first time at the sentencing hearing. We are not inclined to accept this argument, as a detailed perusal of the impugned orders dated 18.05.2026 and 25.07.2026 makes it clear that both the orders were passed on the basis of the events that transpired on the days of the attempted execution of the Local Commission. The references to the post-decree conduct of the appellant, non-payment of damages and continued unauthorised use of the software were made by the



Trial Court to highlight that the apology tendered by the appellant was neither sincere nor adequate. We see no infirmity in the conclusion drawn by the Trial Court.

42. Even the plea that the appellant cannot be vicariously held liable for disobedience of the order of the court, is unmerited, for the reason that the Report of the Local Commissioner makes it clear that the appellant himself was present at the Police Chowki on 17.08.2023 and also at the premises on 18.08.2023, where he denied entry to the Local Commissioner unless his 'conditions' were met. As such, it is clear that the appellant was personally involved in the obstruction of the Commission and thereby, in disobedience/breach of the order of the Trial Court. We have also examined the other submissions put forth by Ms. Rajeshwari as narrated in paragraph 6 to 10 above, and find that they run contrary to the established facts of the case. As such, they are also rejected.

43. Ms. Rajeshwari, while relying upon a host of judgments, has fervently submitted that if the finding of disobedience is upheld, a lenient view be taken and the appellant be given a chance to reform himself. Her submission is to substitute the sentence of imprisonment with an admonition or non-custodial punishments such as community service. We see no convincing reasons to revoke or substitute the sentence imposed by the Trial Court. The actions of the appellant as highlighted above, are a direct affront to the judicial system and the rule of law.

44. However, considering the submission that the appellant is a divorced parent of a minor child who is in his custody, and that he is also the sole



caregiver of his ailing father, we reduce the sentence of imprisonment imposed by the Trial Court by a month. The appellant shall undergo detention in civil prison only for a period one month.

45. In view of the above, the appeal is disposed of along with the pending application.

46. We grant the appellant fifteen (15) days' time to surrender before the authorities at Central Jail, Tihar, for compliance of this order.

47. Let a copy of this order be communicated to the Superintendent, Central Jail, Tihar, for information and compliance.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

AUGUST 13, 2026

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