Supreme Court of India
Ila Vipin Pandya vs Smita Ambalal Patel on 17 May, 2007
Author: Harjit Singh Bedi
Bench: B.P. Singh, Harjit Singh Bedi

CASE NO.:
Appeal (civil) 2455 of 2005

PETITIONER:
Ila Vipin Pandya

RESPONDENT:
Smita Ambalal Patel

DATE OF JUDGMENT: 17/05/2007

BENCH:
B.P. SINGH & HARJIT SINGH BEDI

JUDGMENT:

J U D G M E N T HARJIT SINGH BEDI, J

1. This appeal by special leave is directed against the order dated 25th August, 2004 of the Division Bench of the Bombay High Court in notice of motion No. 1207 of 2004 in Testamentary Suit No. 17 of 1996 whereby the order of the learned Single Judge dismissing the notice of motion by order dated 29th July, 2004 has been confirmed.

2. The facts as taken from the appeal and relevant to its disposal are as under:

3. The appellant Ila Vipin Pandya was married to Vipin Dalsukhram Pandya on 15th December, 1966. The couple, however, divorced on 24th May, 1985 but performed a remarriage on 15th January, 1987 with the remarriage being registered before the Registrar of Marriages, on 10th February, 1987. Vipin Pandya aforesaid died as an intestate on 4th November, 1995 on which a testamentary petition was filed by his widow Ila Vipin Pandya on 9th February, 1996 praying for the grant of letters of administration for the estate of the deceased. The respondent Smita Ambalal Patel, however, filed a Caveat on 7th March, 1996 opposing the grant and also filed an affidavit on 13th March, 1996 denying that the deceased had died intestate and pointing out that he had executed a Will which had been deposited by him with an Advocate and Solicitor Markand Gandhi and further that the appellant was not the widow of the deceased as no remarriage had taken place as alleged. As the testamentary petition came to be contested by the Caveat it was converted into Testamentary Suit No. 17 of 1996. The appellant thereafter took out Chamber Summons No. 990 of 1996 praying for the dismissal of the caveat on the plea inter alia that no caveatable interest had been disclosed in the affidavit and that she as the widow of the deceased was his only heir. The respondent filed an affidavit on 29th October, 1996 in reply to the Chamber Summons for the first time disclosing that she was a creditor of the estate of the deceased. The matter came up before a learned Single Judge of the Bombay High Court (Dr. (Mrs.) Upasani, J.) who, in her judgment dated 23rd December, 1996, observed that the Caveatrix had disclosed her "interest in the estate of the

deceased by stating that she was a creditor of Vipin Pandya to the knowledge of the petitioner Ila" and that the deceased had apparently executed a Will which had probably been deposited with Markand Gandhi, Advocate. It was also observed that creditors of a deceased could not be said to have any interest in the estate left by him and the interest was limited to ensuring that the assets of the estate were sufficient to pay the debts of the deceased and that the remedy of a creditor of a deceased under normal circumstances was to file a suit against the person in whose favour the grant of probate or letters of administration had been made, but having so held, further observed that in the peculiar facts of the case an outright dismissal of the caveat would not be justified. The challenge made to this order before the Division Bench of the Bombay High Court and before the Hon'ble Supreme Court by way of Special Leave Petition also failed as both matters were dismissed vides orders dated 4th March, 1997 and 28th April, 1997 respectively. Respondent Smita Patel thereafter filed Suit No. 4892 of 1998 on 18th September, 1998 before the Bombay High Court impleading Ila Pandya as defendant No. 1, the brothers of her deceased husband as respondent Nos. 2, 3, 4 and several other respondents as well, alleging that the deceased had left behind huge properties which were being misappropriated by one or the other of the respondents and that the deceased was at the time of his death indebted to her with respect to large sums of money and that an arbitration attempted between them at one stage had proved to be unsuccessful. Along with the plaint she appended a letter dated 25th September, 1995 addressed by Vipin Pandya to her acknowledging his liability to pay a sum of Rs.20 lacs which apparently was due to her and also undertaking to deposit a sum of Rs. 1 crore to her account and in addition casting aspersions on the appellant and his brothers and further stating that he had made a Will and had got it registered and had deposited it with Markand Gandhi. She further pleaded that even after Vipin Pandya's death efforts at an informal mediation by Justice S.K. Desai, a former Judge of the Bombay High Court had been made, but again without success. It was further pleaded that an attempt was being made to dispose of the huge properties left by the deceased in a surreptitious manner so that the money could be embezzled by the so-called heirs of the deceased. It was accordingly prayed inter alia that as she was a creditor of the estate of the deceased in the sum of Rs. 1,84,80,000/-, this amount alongwith interest @ 21% p.a. from the date of the suit till the payment was released to her and such other sums as were due to other creditors be also paid to them or secured in such manner as was deemed appropriate and that to secure the safety of the assets, a Court Receiver be appointed as well. The appellant thereupon took out the present Notice of Motion (No. 1207 of 2004) seeking leave of the court to deposit to the credit of Suit No. 4892 of 1998 an amount of Rs.1,20,00,000/- or any amount that the court may determine, or in the alternative to furnish a bank guarantee, for the said amount. The respondent in her affidavit in reply dated 16th June, 2004 pointed out inter alia that the Chamber Summons had been taken out to delay the hearing of the testamentary suit which was posted for the recording of evidence and that the claim preferred by her in the civil suit was not time barred. She also filed an additional affidavit deposing that the present notice of motion was similar in terms to Notice of Motion No. 816 of 2004 which had earlier been taken in suit No. 4892 of 1998. By an order dated 29th July, 2004 the learned Single Judge of Bombay High Court dismissed the notice of motion holding that as Chamber Summons No. 990 of 1996 had already been rejected by the learned Single Judge which order had been confirmed by the Division Bench of the Bombay High Court on 4th March, 1997 and the Special Leave Petition which had filed in the Supreme Court had also been dismissed and that the issue as to whether Smita Patel had any caveatable interest had been deleted by the Court vide order dated 16th August, 2001 in Chamber Summons No. 241 of 2001, the

question or otherwise of her caveatable interest was no longer in dispute. The learned Single Judge then noticed the offer of the present appellant who was a defendant in Civil Suit No. 4892 of 1998 to deposit not only a sum of Rs. 1,84,20,000/- as claimed in Civil Suit No. 4892 of 1998 but in fact to make a deposit of Rs.2,40,00,000/- which would cover the claim calculating interest @ 18% p.a. on the principal sum of Rs. 1,20,00,000/- till date, but as no deposit had actually been made nor any bank guarantee furnished, the notice of motion could not be allowed.

4. The matter was thereafter taken by the appellant before the Division Bench which (as already referred to above) declined to interfere in the matter and dismissed the appeal in limine observing that even if the amount was deposited by the appellant it would still not settle the claim of the respondent or discharge her caveatable interest. It is in these circumstances that the matter is before us by way of special leave.

5. We have heard Mr. R.F. Nariman, learned counsel for the appellant and respondent Smita Ambalal Patel, appearing in person.

6. It has been urged by Mr. Nariman that the earlier set of proceedings i.e. Chamber Summons No. 990 of 1996 which had culminated in this court, the interest that the respondent claimed in the estate of the deceased Vipin Pandya had not been spelt out, but subsequently by the filing of Civil Suit No. 4892 of 1998, the respondent had herself quantified the amount allegedly due to her as a creditor of the deceased and as the appellant was willing to pay even more than the sum claimed in the civil suit as had been noticed by the Learned Single Judge in his order dated 29th July, 2004, there was absolutely no reason whatsoever to hold that the respondent's caveatable interest still existed. It has been pleaded that despite of fact that the respondent had time and again referred to a Will executed by Vipin Pandya and had often threatened to produce the same in court, she had not done so despite the fact that the testamentary suit had been filed way back in 1996 and she had in this interregnum fought the proceedings in every possible forum, both civil and criminal. It was also argued that even assuming that a remarriage had not been performed by Ila Pandya appellant with Vipin Pandya on 15th January, 1987, the property left by him would devolve on his siblings, who had in their affidavits pleaded that a re-marriage had indeed taken place and that Ila Pandya was the widow and was therefore entitled to all his property and that they had absolutely no objection if the letters of administration were granted to her. It has further been contended that the respondent had till today not alleged that she had any interest in the assets of the deceased other than that of a creditor for the aforesaid quantified figure. He has finally contended that the appellant was willing to pay any amount which this court found adequate so as to bring the entire set of bitter and acrimonious proceedings between the parties to an end.

7. The respondent appearing in person, however, categorically rejected any possibility of a settlement and also referred to several letters and documents on record pointing out that the advocates who had been appearing in these and connected proceedings from time to time had been guilty of defrauding her of her due and that in the light of fact that the Supreme Court had also declined the appellant's prayer for issuance of Chamber Summons challenging her caveatable interest, the matter being res-judicata no further proceedings were justified on account of the present notice of motion. On the last date of hearing i.e on 3rd May, 2007 she had also submitted

written arguments in the form of an affidavit which we have taken on record in which she at the very outset deposed that Mr. Nariman had on 11th January, 2007 made an offer to pay a sum of Rs. 4 crore by way of a settlement but that this amount was not acceptable in view of the huge properties left by the deceased and that the properties identified in the amended schedule of assets shown at item Nos. 4, 5, 6 and 10 (a),(b), 11 (a)(b), 12 and 18 in addition to some amount towards counsel fee alone would be acceptable.

8. We have considered the arguments advanced before us. It is true, as has been contended by the respondent, that Chamber Summons No. 990 of 1996 taken out by the appellant had been dismissed on 23rd December, 1996 by Upasani, J. with the observation that though the normal procedure for the recovery of a debt due from a deceased was a suit by the creditor against the beneficiaries of the estate but in the peculiar facts of the case the respondent did have a caveatable interest. Concededly this order had been confirmed by the Division Bench of the Bombay High Court and thereafter by the Supreme Court with the Special Leave Petition being dismissed in limine. However, we find that Civil Suit No. 4892 of 1998 had been filed subsequently and it is at this stage that the present notice of motion has been moved by the appellant conceding her claim and undertaking to deposit all sums due to her before the Bombay High Court. We are therefore unable to understand that in the background that the respondent has claimed only a creditors interest in the estate of the deceased and on no other relationship or basis in the several proceedings that have been filed by her, can it be pleaded that her caveatable interest still continued to survive? It bears repetition that the respondent has time and again referred to a Will allegedly executed by Vipin Pandya and had even in the arguments before us repeatedly asserted that she would produce it in the testamentary suit pending in the Bombay High Court, but has not done so till day though the suit had been filed in the year 1996 and is at the stage of the recording of evidence. On the contrary we find that Vipin Pandya's siblings have given affidavits identifying Ila Pandya appellant as his widow and legal heir and deposing that they had no objection to the letters of administration being granted to her. We are thus unable to comprehend or fathom the right that the respondent still claims in the estate of the deceased so as to maintain her status as a caveatrix. The written arguments submitted by the respondent are completely silent on this aspect, and rake up absolutely irrelevant issues.

9. There is yet another disturbing feature of this case which needs to be highlighted. We must, at the outset, emphasize that a litigant appearing in person does not enjoy a status higher than that of a lawyer arguing a case for his client. We are also aware that such a litigant is nevertheless given extra consideration by the court for several justifiable reasons; first, the torturous and cumbersome court procedures are truly debilitating and tend to exhaust and frustrate the most hardened and energetic litigant, often making him bitter about the entire system; secondly as a layman with limited knowledge of law he is unable to distinguish between a relevant and an irrelevant argument leading to verbosity and finally, being over sensitive to his case with the opposite counsel and Judge often being identified as belonging to a hostile camp, an occasional digression or deviation from established norms and mores is tolerated. We have, however, come to notice a growing tendency on the part of some litigants to misuse the latitude granted to them and to deliberately create a situation whereby the functioning of the court becomes an impossibility thus stultifying the entire judicial process. Smita Patel falls eminently within this category. During the course of arguments spread over parts of three days she refused to argue on the merits of her case and on the issues

raised by Mr. Nariman but used foul language for some of the counsel who had been associated with this and other connected matters dubbing them as criminals closely associated with those who had been responsible for the Bombay blasts. We had at first advised her to be careful and to refrain from making baseless allegations against those who were not before the Court as parties and had subsequently cautioned her that she was over stepping the limits of decency which would compel us to take unpleasant steps against her, but to no avail. On the contrary she shouted back that the court could do whatever it liked but she would continue to expose the advocates who were a threat to the safety and security of her country. Finding it impossible to proceed any further we were constrained to record the following order on 3rd May, 2007:

"The respondent, appearing in person, had started her arguments in this case on 28.3.2007 at 3.00 p.m. and the matter remained part- heard on that day. Thereafter, she resumed her arguments on 12.4.2007 at 3.15 p.m. and did not complete even on that date. Thereafter, the matter came up for hearing on 19th April, 2007 when a telegram sent by the respondent was placed before us in which she had requested for adjournment of the matter till 2nd May, 2007. That is how the matter is before us today.

The respondent, appearing in person, resumed her arguments at 10.40 a.m. She has not addressed any argument so far which may be considered to be relevant to the issue involved in the appeal before us. We have repeatedly tried to persuade her to deal with the submissions urged on behalf of the appellant. Rather than doing that, she has been reading before us various documents in the different volumes of the paper book relating to the conduct of certain advocates and she insisted that she is concerned about the misconduct of the advocates who have held this country to ransom and who have associated in causing bomb blasts in this country. When we tried to explain to her that we are not concerned with those issues and we are concerned with only those issues which are relevant to the dispute before us, she retorted that she is very much concerned with the misconduct of lawyers and her real fight is against them not the appellant and therefore, we must hear her on those issues. When we explained to her that those issues are irrelevant and she must confine herself to the relevant issues she raised her voice and started addressing the Court in a manner unbecoming of even a party appearing in person. Having regard to the fact that she is a lady and she is appearing in person, and that she may have a grievance, we tolerated her to the extent possible. Her conduct is now beyond tolerance. She has reduced the judicial proceeding to a mockery. Since she is wasting the time of the Court by referring to irrelevant record and not addressing the Court on the issues involved, we are constrained to close the arguments. Since the respondent persists in raising her voice and making irrelevant comments in a manner which completely erodes the sanctity of judicial proceeding, we shall only be wasting the time of the Court, if we continue to hear the respondent further. We shall proceed to pronounce our judgment in due course.

The respondent who appears in person has handed over to us written arguments on affidavit and prays that her written submissions may be taken into consideration. We shall certainly take into consideration the written arguments submitted by her".

10. We have also gone through the earlier record of proceedings and find a very disturbing picture indeed. It appears that the testamentary suit was fixed for framing of issues before Deshpande, J., of

the Bombay High Court on 25th August, 2000, when she misbehaved in Court on which a notice to show cause as to why action for contempt of Court should not be taken against her was served on her there and then and eight days time was allowed to file a reply. The Learned Judge thereafter by his order dated 17th August, 2000 found her guilty under Section 12 of the Contempt of Courts Act, 1971 and sentenced her to undergo simple imprisonment for three weeks and to a fine of Rs.2000/- in default, to undergo a sentence for one week and also directed her to pay Rs.5000/- as costs to the counsel for the petitioner. The observations in the aforesaid order tell their own tale and we re-produce hereunder some paragraphs from it : "This matter was on board on 25.8.2000 for framing issues, when for no reason and without any provocation from the advocate for the petitioner Ms. Farishte Sethna, contemner lost her temper and started making accusation against Ms. Sethna, in particular, and advocates in general calling them Virappan, the dreaded sandal decoit from South, kidnapping Justice and dictating terms to the judges. She was warned repeatedly by me of consequences for making such reckless allegations. But she continued to make them without taking into account all the warnings. She lost her temper, sense of propriety and not maintaining decorum and created chaos in the court room.

Then and there is a notice was served upon her as to why action for contempt should not be taken against her. She was given eight days time to give reply.

Not affected in the least by contempt notice served upon her, the contemner Smita Patel came to the court on 2nd or 3rd day with an affidavit and started asserting that she had said something more against the advocates and that should be include in the contempt notice. The affidavit was not taken by me on record with a warning that she was aggravating the situation and that may lead to trouble for her. However, Smita Patel filed an affidavit in reply to the show cause notice on 4.9.2000. She also filed thereafter another affidavits dated 15.9.2000 and 4.10.2000. In the same manner, the petitioner Ila Vipin Pandya, who was present when the aforesaid incident dated 25.8.2000 took place in the Court Room, filed an affidavit dated 27.9.2000. Thereafter, both, the advocate for the petitioner Ms. Farishte Sethna and the contemner Smita Patel were heard by me on three occasions at length.

It is necessary to note at this juncture that neither during her oral submissions nor in any of her affidavits, Smita Patel expressed her regrets for her uncalled scandalous allegations and utterances in the Court against the Advocates, nor she was at any time apologetic about her behaviour in the Court. She did not express repentance or remorse about her behaviour, but to the contrary during her argument she contended that she does not want any sympathy from the court or anybody. In addition, in her affidavit dated 4.9.2000 she repeated her allegations. When the contempt notice was issued to Smita Patel on 25.8.2000. Ms. Sethna had insisted that Smita Patel also uttered the words that she has been terorrising the judiciary. But I had deliberately omitted to take this as a ground for the contempt notice because of the compassionate view which a Court generally has for the litigants fighting their own cases. However, Smita Patel in her affidavit dated 4.9.2000 admitting that she made an oral request to me on 28.8.2000 to include those words in contempt notice and she had prayed that the contempt notice be amended and corrected accordingly and the words uttered by her that "she has been terrorising the judiciary" be inserted therein.

If the contemner wants and insists upon making situation difficult for her, is adamant and has uncalled for recklessness upon such insistence, then the Court can not have any objection, and therefore, while deciding the contempt notice, I am doing to take cognizance of those words uttered by her on 25.8.2000 to the effect that she has been terrorising the judiciary.

In fact the words uttered by Smita Patel in the Show cause notice and as now added were uttered by her before Justice R.J. Kochar also on 23.8.2000, as submitted and pointed out before me by Ms. Sethna, Smita Patel in her affidavit dated 4.9.2000, admitted to have uttered those words before Justice R.J. Kochar. However, what happened before Justice Kochar on 23.8.2000 can not be made subject matter of the contempt notice because Justice Kochar did not take any action against contemner Smita Patel.

From the aforesaid circumstances it would be clear that utterances of Smita Patel in the court that advocates are Virappan, they are kidnapping Justice and dictating the terms to the Judges and they have been terrorising the Judiciary are undoubtedly contemptuous and they are nothing short of criminal contempt which is defined in Section 2 (c) of the Contempt of Courts Act, 1971 ;

11. The learned Single Judge also recorded that: " .very rarely persons fighting their own cases in the Courts behave in the manner in which Smita Patel has been behaving in the Courts .

12. And further "So far as misbehaviour of Smita Patel is concerned, she has crossed all the limits. So far as misbehaviour in Court is concerned, she is in the habit of loosing temper in Court, shouting and raising her voice, scorning at the advocates, making faces, and gestures contemptuous to the other side, making show to the public, addressing the huge mob ."

13. And yet further "Even while arguing this show cause notice Smita Patel did not stop and did not control her expressions. She was contemptuous while Ms. Sethna addressing the Court. She was making faces in the Court, laughing and smiling as if the contempt notice is a prize or garland offered to her by the whole judicial system for her fighting against so called corruption and unfair tactics of the advocates "

14. Deshpande, J. also referred to her misbehaviour in other Courts as well and to the proceedings before Upasani J., in which she had made the following order: "Caveatrix S. Patel who is appearing in person is shouting very loudly and is disturbing the Court proceedings. Actually she is talking and screaming in a very high pitch which makes it impossible for the court to go on with the hearing of this matter" " Mr. D.S. Parikh has agreed to the expeditious hearing of the petition and the suggestion was made to hear Notice of Motion along with petition at an early date. However, the Caveatrix, after hearing this suggestion, has backed out and has started speaking all sorts of irrelevant things accusing Advocates, the judicial systems in general, without giving specific reply to the query made by the Court. In the commotion caused by the shouting and screaming of Ms. Patel, it is not possible to go on with the proceedings. The Court is, therefore, constrained to adjourn the matter to the next date.

At this stage, Mr. D.S. Parikh, who is appearing for the petitioner, makes an earnest oral request, in view of the allegations hurled by the Caveatrix against the Advocates and judicial system and in view of the commotion which is being created by the Caveatrix and in view of the irrelevant speeches obviously intended for playing to the gallery that the proceeding be tape-recorded so that whatever unwarranted, irrelevant and almost defamatory remarks are passed by the Caveatrix would be recorded".

Heard Mr. D.S. Parikh, so also the Caveatrix. The Caveatrix is shouting loudly to the effect that "why tape recorder, even Video Camera should be fitted in the Court Room and every thing should be recorded".

Perused the proceedings. It was informed to this court across the bar that even my predecessor Mrs. Baam J, had given directions that a lady constable should remain present in court obviously in view of the violent nature and frequent outbursts of the Caveatrix. On this backgraound, the Caveatrix obviously appears to be out of control and is in fact disturbing the court proceedings; the suggestion made by Mr. D.S. Parikh appears to be worth taking notice of it. Hence, the following order is passed:

Mr. D.S. Parikh may bring his tape recorder on the next date and the Court may consider whether the proceedings should be recorded or not on that day".

15. On 24th December, 1997 Upasani, J also passed the following order:

" There used to be always heated arguments and outbursts, unwarranted remarks; playing to the gallery-attitude on the part of the Defendant, and there used to be always atmosphere of chaos in the Court Room. The hearing therefore, could not take place in the congenial, peaceful and disciplined atmosphere as it should be in any Court of Law. Very often, the Defendant has gone astray while arguing the matter and has deviated from the averments made in the Chamber Summons, making some results and many of the points remained to be clarified in the utter chaos that ensued".

16. It appears that earlier to these proceedings, Patel, J., on 6th March, 1997 had recorded as follows:

" The Defendant stated that by the draft Chamber Summons she was seeking urgent reliefs. She insisted that the same could therefore be taken up for hearing. Accordingly, the Defendant was given a patient hearing for the plaintiff rose up to make his submission. He hardly argued for five minutes when he was interrupted by the Defendant with the result he could not continue the submission. It was noticed that through out the hearing the Defendant was noisy and she was talking at the top of her voice. She not only talked irrelevant things but also made wild allegations against the advocates as well as the staff of the Court. She was in angry mood and she did not listen to any advice given by me to be reasonable and relevant. On the contrary, she went on shouting that she would not bother even if she were to be hanged. The behaviour of the Defendant in the Court Room was highly undignified and objectionable. In fact, it is found that she has been conducting herself in the same

manner whenever she appears in the Court. This is not only my experience but also of the other learned Judges before whom the Defendant appeared in this matter. My attention was drawn to the order dated 10th December 1997 passed by Dr. Upasani, J. in Chamber Summons No. 446 of 1997 wherein observations about the objectionable demeanor of the Defendant are made. Shri Merchant, the learned Advocate for the plaintiff therefore submitted that the Court should take stern action against the Defendant for her misbehaviour. The Defendant being a lady, not represented by any advocate, was shown some indulgence and tolerance. However, the Court will have to think seriously in case the Defendant persists in misusing the indulgence so as to disturb and obstruct the court proceedings".

17. Yet later, Datar J., on 27th April, 1998 observed that Mr. Humranwalla for the petitioner/plaintiff had stated that M/s. Humranwalla & Co. was thinking of withdrawing from the matter because of the wild allegations made by the Caveatrix, and that Mr. Merchant, learned counsel for the petitioner had also refused to appear in the matter.

18. Reference was also made to an order of Bamm, J, who had recorded:

"At this stage, when the notice of motion is called out, the respondent Ms. Smita Ambalal Patel appeared in person and re-agitated the issue of the review petition which has already been decided on the last Wednesday. When questioned whether she wanted to go on with the hearing of the notices of motion, she stated that she wanted xerox copies of the documents to which the Learned Advocate for the petitioner stated that every time when an adverse order is passed, this litigant applies for time to ensure that the matter is removed from the board of that particular Court. To this statement, the litigant started shouting in Court and made scandalous allegations considerations". This irresponsible behaviour and conduct which the respondent has been adopting from time to time when adverse orders are passed tends to prejudice the confidence of the litigants in Courts who are present in Court for the administration of justice and disturbs the decorum of the Court.

Hence the Prothonotary and Senior Master is directed to issue a show cause notice to the respondent Ms. Smita Ambalal Patel calling upon her as to why contempt proceedings should not be adopted against her. Even when I passed the order of issuance of show cause notice, the respondent cannot dictate to the presiding judge as to what order the Court should pass. The respondent thinks that she knows everything and time and again she disturbs the proceedings in the Court and thereby prejudices the progress of other matters in the Court. She left the Court in a huff and puff and again shouted to the effects "the Learned Advocate for the petitioner, Shri Humranwalla, should go in jail". This is the attitude adopted by her from time to time which does not befit a litigant. By this behaviour which she has been adopting from time to time, by shouting and screaming in Court, she has been causing nuisances and prejudices the Court proceedings, and every time when the order is padded, which is not to her liking, she creates contemptuous atmosphere which not only disturbs the decorum of the Court, but also prejudice the progress of the proceedings in the Court".

19. Baam J., thereafter issued a suo moto notice of contempt of court to the respondent and the matter was transferred to R.J. Kochar, J., who while holding her guilty, took a lenient view and

discharged the notice cautioning her to keep her balance and not to lose her temper. The learned Judge also noted that the outbursts of the respondent had compelled several Judges including Baam J., to transfer the case from their Courts.

20. The respondent filed an appeal against the order dated 17th August, 2000 before a Division Bench of the Bombay High Court, which in its order of 16th November, 2000 recalled the facts of the case and held as under:

"We have patiently ploughed through the long affidavits and we find them bristling with wholly irrelevant particulars for replying the Show Cause Notice issued to the contemner. She has also indulged in bulky correspondence with the Prothonotary and Senior Master by addressing a number of letters to him and placing on record what transpired during the course of the hearing according to her. She insisted that the Court should accept the truth of the allegations contained in those letters addressed to the Prothonotary and Senior Master as they were not controverted by any one".

xxxx xxxx xxxx xxxx xxxx "At the outset, we felt that the contemner being a lay person was, perhaps, likely to be impetuous on account of the trauma which she might have undergone during a series of litigations, which she had to prosecute in this Court. Though the appeal as such involves very limited issues of fact and law, we have given the contemner a disproportionately long and patient hearing lasting the whole of yesterday and virtually half of the morning session today. During her long rambling arguments, at times incoherent and punctuated by bitter sobs and impassioned pleas, the contemner made a few points of law, which we have noted. On one such point, we thought that we should call upon a natural impartial counsel to address the Court. We, therefore, requested the learned Advocate General to address us with regard to the question of law. We express our grateful appreciation of the assistance rendered by the learned Advocate General".

xxxx xxxx xxxx xxxx "The next question that arises is, whether the learned Judge was justified in the quantum of punishment imposed on her. In view of the contemner's history that we have narrated, it appeared to the learned Single Judge, and it appears to us too, that the leniency showed by different learned Judges was misconstrued as weakness by the contemner. It may be that the contemner is the victim of circumstances where under someone cheated her and some advocates behaved unprofessionally in connection with her litigation. It may also be possible that she has lost her mental balance because of the said facts. (Though, considering the manner in which the contemner coolly argued the appeal before us, we are not inclined to believe that she has really lost her mental balance). These were the circumstances specifically considered by Kochar, J. when he discharged the contempt notice issued to the contemner in view of the apology tendered, undertaking given, and the promise of future good behaviour. It appears to us that the trust and confidence reposed by Kochar, J. in the contemner stood betrayed on account of her conduct before the learned Single Judge (Deshpande, J) the details of which we have already referred to. Considering the different orders passed by the different learned Judges of this Court and, the circumstances under which each of the said learned Judges felt that the contemner was taking undue advantage of the leniency of the court and behaving in a manner obstructive or decorous administration of justice in the court, we are not in a position to say that the learned Single Judge has imposed a disproportionate quantum of punishment, in view of the background of the case".

21. The Division Bench accordingly confirmed the order of the Learned Single Judge. The matter was thereafter brought to this Court by way of Criminal Appeal No. 382 of 2001, and on the "fervent appeal" made by Mr. V.S. Kotwal, her Counsel that some indulgence be shown to her as she would hereafter not perpetrate any contempt of court and further observing that as she was a lady it appeared that the apology was infact genuine, by order dated 26th March, 2001 directed that the sentence imposed would remain suspended for a period of five years on the following conditions:

1. "Appellant shall give an undertaking before the Single Judge (before whom the contempt was committed by her) in the form of an affidavit that she will not commit any act of contempt of any court hereafter;

2. If the said undertaking is violated the sentence of imprisonment imposed on her will automatically review and appellant will be liable to be put in prison for undergoing that part of the sentence;

3. The fine part of the sentence as well as the orders to pay cost would remain undisturbed and appellant shall not apply for refund of the same;

4. If the appellant fails to give the said undertaking within four weeks from today she will forfeit the benefit granted as per this order; and

5. As to what would be the situation after the period of five years will be decided by the High Court on a motion made by the appellant contemnor.

With these observations this appeal is disposed of".

22. We find that in the light of the above directions we could send her to jail to serve out her sentence, but we desist from doing so.

23. The matter does not end here. We had, as already indicated, closed arguments on 3rd May 2006 by a speaking order. On the very next day some applications on affidavit dated 4th May 2007 tendered apparently by the respondent were sent to us, again referring to some of the proceedings that had been going on and again raking up irrelevant issues. We reproduce hereunder and verbatim some extracts therefrom:

"Thereafter, in the midst of the arguments of the respondent, the learned Senior Counsel Mr. R.F. Nariman got up and stated that they were prepared to offer anything for settlement. The respondent had at this juncture, furnished two sets of "written arguments on affidavit of the respondent dated 02.05.2007" to the court and one to the learned Senior Counsel Mr. R.F. Nariman and prayed for the say of the Learned Counsel as well as the appellant. The Court read the entire affidavit. The respondent states that the appellant who is the front/ostensible party of the advocates on record engaged by the underworld who are the real parties and have been repeatedly violating the orders/undertaking/status quo orders of the Bombay High Court, tempering with judicial order of the court as well as the courts record with the connivance of the court staff. These advocates have no

regard for truth and the courts of law. The respondent states that it is untrue and incorrect to record by Your Lordships that the respondent does not want to argue on points raised by the learned Senior Counsel Mr. R.F. Nariman for the appellant and therefore the court is closing the respondent's arguments. In fact he had completed his argument on 11.4.2007 and the respondent had started her argument on 11.4.2007 from 2.15 p.m. to 4.00 p.m. and on 12.4.2007 from 3.15 p.m. to 4 p.m. and on 03.05.2007 from 10.45 a.m. to 12.15 p.m. and has partially dealt with the learned Senior Counsel Mr. R.F. Nariman's argument".

xxxx xxxx xxxx xxxx "The application dated 26.04.2007 (without annexures) made to the Hon'ble the Chief Justice of the Bombay High Court by the respondent and inter-alia prayed that the only way to weed out the cancer of corruption from the judiciary and prevent the unholly nexus between the few corrupt advocates and the court staff is "To hang the victim Smita Patel from the strong hook kept in the Central Court of the Bombay High Court instead from a lamp post on 15th August 2007 on the Independence Day under the directions of the coming Chief Justice Shri Swatanter Kumar.

In the light of the above submissions, the respondent states that she has not said anything that would attract contempt of courts action against her. However, if this Hon'ble Court still inclined to initiate contempt notice, the respondent prays as under:-

(A) This Hon'ble Court be pleased to order that from the Platform Plaza (in the front of the Hon'ble Chief Justice Court Room No.1) the respondent be shot from a cannon and killed like "Rani Laxmibai- The Jhansi Ki Rani" who was shot and killed by the Britishers as was the practice.

(B) A dynamid be directed to be kept and the respondent is willing to sit on the lap of the statue of Mahatma Gandhi situated in front of the garden lawn of the Supreme Court and light the fuse herself."

Nota Bene: Some of the extracts in the preceding paragraphs have spelling and grammatical errors, but we have reproduced them verbatim from the record before us.

24. It is indeed disgusting to see a litigant attempting to intimidate the Supreme Court and two of its Judges in such a crude and obnoxious manner.

25. A resume of the facts clearly reveal the incorrigible and recalcitrant attitude of the respondent. We could perhaps condone her errant conduct if she was merely a highly strung and impetuous lady over-sensitive to her case and unaware of the nuances of the law and the decorum to be maintained in Court but we are satisfied that no ignorance nor mental imbalance is discernible which can be pleaded in extenuation of her behaviour. The record reveals that she is well aware of the conduct of the judicial process and the law and facts relating to her case, but she has evolved a strategy which has thus far kept her in good stead as it has been designed to filibuster the proceedings in case she finds that they are not taking the direction that she has chalked out and that despite her conviction for contempt of court on two occasions and numerous admonitions and warnings notwithstanding, she has remained unfazed and has in a most unbecoming manner relentlessly and ruthlessly

pursued the litigation. We also quote yet again from the judgment of the Division Bench dated 16th November, 2000:

"It may also be possible that she has lost her mental balance because of the said facts. (Though, considering the manner in which the contemner coolly argued the appeal before us, we are not inclined to believe that she has really lost her mental balance)".

We completely endorse this observation.

26. We must emphasize that a Court is not a forum which can be used for spewing venom and vitriol on the opposite party, and even more alarmingly, on the judge hearing the case and the counsel representing that party. The written arguments that the respondent has filed in court betray her purpose. The new demands clearly reveal her intention to extort as much as she can from the appellant, who, it must be presumed, is exhausted and drained by the huge number of court proceedings that have been going on for the last 11 years.

27. We have advisedly given the detailed history of this litigation to emphasize that those who attempt to take court proceedings lightly or try to subvert the judicial process to their advantage, do so at their peril. The imposition of exemplary costs must, as a consequence, follow.

28. In this view of the matter we allow this appeal and set aside the order dated 29th July, 2004 of the learned Single Judge and 25th August, 2004 of the Division Bench and allow the notice of motion and direct that the appellant shall, within a period of three months from today deposit a sum of Rs.2,40,00,000/- in all with the prothonotary of the Bombay High Court (and after deduction of the costs) the balance to be disbursed to the respondent in full discharge of her claim as a Caveatrix in the testamentary suit and as a plaintiff in Civil Suit No. 4892 of 1998, and that no application of whatever nature in respect of these two matters will hereinafter be entertained by any Court. We are also of the opinion that as a consequence of the above direction and in the interest of justice the respondent's interest as a caveatrix shall stand discharged and the Civil Suit filed by her shall also be deemed to be disposed of.

29. We also impose costs of Rs. five lakhs to be recovered from the sum awarded as above. The amount representing the costs will be donated to a charity to be identified by the Chief Justice of the Bombay High Court.