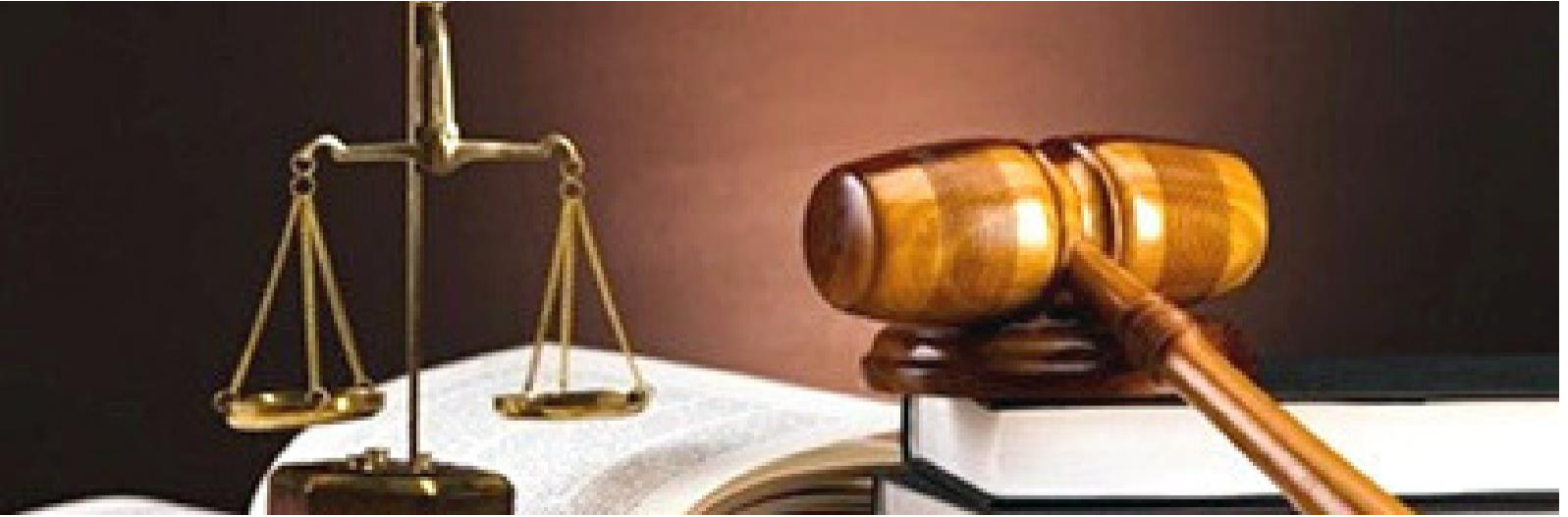


IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



Ved Prakash Abbot Vs Kishore K. Avarsekar & Ors.

Brief Facts

Respondent was a Public Limited Company, which entered into a building contract for re-development plan for Lady Hardinge Medical College and Associated Hospitals. The petitioner had supplied building material for the project to the respondent between April 2013 and September 2015. Some outstanding amount remained due towards the petitioner and the petitioner had filed a suit against respondent for the said outstanding amount of Rs.10.2 lakhs.

The respondent filed a case for recovery against the petitioner and a settlement was made under Order 23 Rule 3 of Civil Procedure Code. Later, the respondent failed to repay the outstanding amount and an application under the Code was filed and the company moved to CIRP.

In the abovementioned case, A contempt petition was filed by the petitioner under Sections 10 and 12 of the Contempt of Courts Act, 1961 read with Article 215 of the Constitution of India, seeking a direction to punish the respondent and its key officers/directors for willful disobedience of the compromise decree in favour of the plaintiff in respect of a settlement under Order 23 Rule 3 CP0C.

Decision

- a.** The high court held that Section 14 of the Code will not come in the way of the contempt Court exercising its powers under Article 215 of the Constitution of India and the Contempt of Courts Act. **[Para 53, 57]**
- b.** The Court held that a criminal proceeding against the CD could continue despite a moratorium under Section 14 of the Code. Since there are no criminal proceedings filed before this Court and what is filed is a petition under Sections 10 and 12 of the Contempt of Courts Act, 1971, read with Article 215 of the Constitution of India and is in the nature of civil contempt. **[Para 53]**
- c.** The court held that there was no wilful disobedience of the compromise decree by the respondent. Although there has been a disobedience, but the disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the Court would not punish the alleged contemnor. **[Para 41]**

Link of the Order

<https://ibbi.gov.in/uploads/order/80899412c1dd646b788321a1c040d98c.pdf>



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