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Golden Star & Ors v Ling Peek Hoe & Ors

B FEDERAL COURT (PUTRAJAYA) — CIVIL REVIEW NO 02(f)-24–04 OF 2016(A)
ABDUL RAHMAN SEBLI, ZABARIAH YUSOF AND HASNAH HASHIM FCJJ
11 JANUARY 2021

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Civil Procedure — Contempt of court — Failure to comply with court order — Whether appellants and their counsel had intentionally disobeyed court order — Whether their conduct was contumacious and disrespectful — Whether charge of contempt was proven against the contemnors beyond reasonable doubt

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The instant judgment concerned committal proceedings filed by the first and second respondents ('the respondents') against the appellants and their lawyer ('HK') for disobeying an order of the Federal Court. The judgment also dealt with an application by HK to set aside that part of the Federal Court's ex parte
E order granting the respondents leave to commence the committal proceedings against him. Following the trial of a civil suit filed by the respondents against the appellants, the High Court had set aside the transfers to the second, third and fourth appellants of two pieces of land ('the lands') belonging to the first respondent. The court had also granted a mandatory injunction ordering the
F appellants to discharge the charge(s) they had created on the lands and to return the original title deeds to the lands to the first respondent within 60 days. The Court of Appeal ('COA') reversed the decision by applying a different standard of proof. The Federal Court, however, set aside the COA's decision and reinstated the High Court's order and further ordered the title
G deeds to the lands to be returned to the first respondent within 60 days ('the FC order'). Dissatisfied with the outcome, the appellants filed a motion in the Federal Court for the FC order to be reviewed ('the first review application') but it was later withdrawn by the appellants' counsel at the time. Claiming that the withdrawal was made without their knowledge and instructions, the appellants
H appointed HK as their new lawyer. HK filed a fresh application for the FC order to be reviewed but because of an irregularity in the cause papers, he filed another review application ('the second and third review applications'). Meanwhile, the respondents had obtained leave of the High Court to cite the appellants for contempt of court for not complying with the court's order. HK
I applied for and obtained a stay of execution of the High Court contempt proceedings pending the disposal of the review applications before the Federal Court. On the respondents' application, the Federal Court struck off both the second and third review applications and granted the respondents leave to commence committal proceedings against HK and the appellants for, inter

alia, disobeying the FC order, openly defying its validity and enforceability and alleging that the Federal Court's decision was biased. In resisting the committal proceedings, the appellants submitted that they were not culpable because they had merely followed HK's advice. On the other hand, HK submitted that whatever applications he filed in court were bona fide and upon his clients' instructions and were not intended to defy the court's orders or to interfere with the due administration of justice. HK also said the respondents had not proved that he had advised his clients to disobey the FC order.

Held, unanimously dismissing HK's application and finding the appellants and HK guilty of contempt of court:

(1) The court was satisfied beyond reasonable doubt that the appellants and HK were guilty of contempt of court for intentionally disobeying the FC order. Their conduct and behaviour was contumacious and disrespectful (see paras 70–71).

(2) Despite having exhausted all avenues to appeal their case, the appellants were recalcitrant by insisting on litigating by filing the review and stay applications. From the time the FC order was granted until the first review application was filed, one year and two months had elapsed, and this was followed by the filing of the second and third review applications. It was apparent that the appellants had unabashedly refused to comply with the order of the High Court which was affirmed and reinstated by this court. The non-compliance of a court order, and in this case, of a mandatory injunction, was a serious matter. Such behaviour showcased total disregard and disrespect for the FC order which tantamount to clear contempt of this court (see para 63).

(3) HK was not a novice but an experienced advocate and solicitor with more than 20 years of litigation experience. When he was engaged, the 60-day time period for the FC order to be complied with had expired. When accepting the brief, HK would have been aware at all material times of the FC order and the terms of the mandatory injunction. Nevertheless, he filed the second and third review applications as well as the application to stay the committal proceedings in the High Court. HK justified this by saying that he was allowed to file these applications under the law on his client's behalf. He could, of course, do so. But, the circumstances and the facts of this case were not that simple or straightforward. There was a specific order to comply with the FC order which had lapsed when the review applications and the stay application were filed. No application was filed to stay the FC order. As an advocate, HK's main and primary duty as officer of the court was to ensure that the rules of court were observed and to respect the court and its orders. His affidavits did not explain whether he had advised his clients to comply with the FC order or that despite his advice to them to comply, his clients had instructed him

to proceed with the filing of the review and stay applications. No reason was given for not complying with the FC order (see paras 64–66).

[Bahasa Malaysia summary

Penghakiman semasa adalah berkenaan prosiding pengkomitan yang difailkan oleh responden pertama dan kedua ('responden') terhadap perayu dan peguam mereka ('HK') kerana tidak mematuhi perintah Mahkamah Persekutuan. Penghakiman tersebut juga adalah berkaitan dengan permohonan HK untuk mengetepikan bahagian tersebut pada perintah ex parte Mahkamah Persekutuan yang memberikan kebenaran kepada responden untuk memulakan prosiding pengkomitan terhadapnya. Setelah perbicaraan tuntutan sivil yang difailkan oleh responden terhadap perayu, Mahkamah Tinggi telah mengetepikan pindahmilik kepada perayu kedua, ketiga dan keempat dua bahagian tanah ('tanah tersebut') yang dimiliki oleh responden pertama. Mahkamah juga telah membenarkan injunksi mandatori yang memerintahkan perayu untuk melepaskan gadaian yang telah mereka buat ke atas tanah tersebut dan mengembalikan surat ikatan hak milik asal tanah tersebut kepada responden pertama dalam tempoh 60 hari. Mahkamah Rayuan ('MR') mengakas keputusan tersebut dengan mengguna pakai standard pembuktian yang berbeza. Mahkamah Persekutuan, bagaimanapun, mengetepikan keputusan MR dan menghidupkan semula perintah Mahkamah Tinggi dan selanjutnya memerintahkan surat ikatan hak milik tanah tersebut dikembalikan kepada responden pertama dalam tempoh 60 hari ('perintah FC'). Tidak berpuas hati dengan keputusan tersebut, perayu memfailkan usul di Mahkamah Persekutuan agar perintah FC disemak ('permohonan semakan pertama') tetapi kemudiannya ditarikbalik oleh peguamcara perayu pada waktu itu. Dengan mendakwa bahawa penarikanbalik tersebut telah dibuat tanpa pengetahuan dan arahan mereka, perayu melantik HK sebagai peguamcara baru mereka. HK memfailkan permohonan baru agar perintah FC disemak tetapi kerana ketidakaturan dalam kertas kausa, beliau memfailkan permohonan semakan lain ('permohonan semakan kedua dan ketiga'). Sementara itu, responden telah mendapat kebenaran Mahkamah Tinggi untuk menyaman perayu kerana menghina mahkamah oleh sebab tidak mematuhi perintah mahkamah. HK memohon dan memperoleh penggantungan pelaksanaan prosiding penghinaan Mahkamah Tinggi sementara menunggu permohonan semakan di hadapan Mahkamah Persekutuan. Atas permohonan responden, Mahkamah Persekutuan membatalkan kedua-dua permohonan semakan kedua dan ketiga dan memberi kebenaran kepada responden untuk memulakan prosiding perbicaraan terhadap HK dan perayu kerana, antara lain, tidak mematuhi perintah FC, secara terbuka menentang kesahihan dan pelaksanaannya dan mendakwa bahawa keputusan Mahkamah Persekutuan adalah berat sebelah. Dalam menentang prosiding pengkomitan, perayu menyatakan bahawa mereka tidak bersalah kerana mereka hanya mengikuti nasihat HK. Sebaliknya, HK mengemukakan bahawa sebarang permohonan yang difailkan

di mahkamah adalah dengan suci hati dan atas arahan anak guam beliau dan tidak bertujuan untuk menentang perintah mahkamah atau untuk mengganggu pentadbiran undang-undang dengan sewajarnya. HK juga mengatakan bahawa responden tidak membuktikan bahawa beliau telah menasihati anak guamnya untuk tidak mematuhi perintah FC.

Diputuskan, sebulat suara menolak permohonan HK dan mendapati perayu dan HK bersalah kerana menghina mahkamah:

(1) Mahkamah berpuas hati melampaui keraguan munasabah bahawa bahawa perayu dan HK bersalah menghina mahkamah kerana dengan sengaja tidak mematuhi perintah FC. Tindakan dan tingkah laku mereka adalah tidak wajar dan tidak menghormati mahkamah (lihat perenggan 70–71).

(2) Meskipun telah menggunakan kesemua langkah untuk merayu kes mereka, perayu bersikap degil dengan berkeras untuk membicarakan dengan memfailkan permohonan semakan dan penggantungan. Pada saat perintah FC dibenarkan sehingga permohonan semakan pertama difailkan, satu tahun dua bulan telah berlalu, dan diikuti dengan pemfailan permohonan semakan kedua dan ketiga. Ternyata perayu secara tidak sengaja ingkar untuk mematuhi perintah Mahkamah Tinggi yang diputuskan dan dihidupkan semula oleh mahkamah ini. Ketidakpatuhan perintah mahkamah, dan dalam kes semasa, injunksi mandatori, adalah perkara serius. Tingkah laku seperti itu memperlihatkan sikap pengingkaran dan tidak menghormati perintah FC yang terjumlah dengan penghinaan mahkamah ini (lihat perenggan 63).

(3) HK bukanlah pelatih tetapi peguamcara dan peguambela yang berpengalaman dengan lebih dari 20 tahun. Apabila beliau dilantik, tempoh masa 60 hari untuk perintah FC perlu dipatuhi telah tamat. Apabila menerima arahan, HK seharusnya mengetahui sepanjang masa yang material perintah FC dan terma-terma perintah mandatori. Walaupun bagaimanapun, beliau memfailkan permohonan semakan kedua dan ketiga serta permohonan untuk penggantungan prosiding perbicaraan di Mahkamah Tinggi. HK memberikan alasan berbuat begini dengan mengatakan bahawa beliau dibenarkan memfaikan permohonan ini berdasarkan undang-undang bagi pihak anak guam beliau. Sudah tentu, beliau boleh melakukannya. Namun, keadaan dan fakta kes ini bukanlah mudah atau ringkas. Terdapat perintah khusus untuk dipatuhi pada perintah FC yang telah luput apabila permohonan semakan dan permohonan penggantungan difailkan. Tidak ada permohonan difailkan untuk menggantung perintah FC. Sebagai peguamcara, tugas utama dan penting HK sebagai pegawai mahkamah adalah memastikan peraturan mahkamah dipatuhi dan menghormati

mahkamah dan perintahnya. Afidavit beliau tidak menjelaskan sama ada beliau telah menasihati anak guamnya untuk mematuhi perintah FC ataupun bahawa walaupun nasihat beliau agar mereka mematuhi, anak guamnya telah mengarahkan beliau untuk meneruskan pemfailan permohonan semakan dan permohonan penggantungan. Tidak ada alasan diberikan dalam tidak mematuhi perintah FC (lihat perenggan 64–66).]

Cases referred to

Asean Security Paper Mills Sdn Bhd v Mitsui Sumitomo Insurance (Malaysia) [2008] MLJU 251; [2008] MLJU 1090, FC (refd)
Badan Peguam Negara v Kerajaan Malaysia [2009] 2 MLJ 161, FC (refd)
Hock Hua Bank (Sabah) Bhd v Yong Liuk Thin & Ors [1995] 2 MLJ 213; [1995] 2 CLJ 900, CA (refd)
Hup Soon Omnibus Co Sdn Bhd & Anor v Lim Chee @ Lam Kum Chee [2017] MLJU 1937; [2018] 1 CLJ 641, CA (refd)
MBf Holdings Bhd & Anor v Houng Hai Kong & Ors [1995] 1 MLJ 135; [1994] 4 CLJ 1002, HC (refd)
PCP Construction Sdn Bhd v Leap Modulation Sdn Bhd (Asian International Arbitration Centre, intervener) [2019] 4 MLJ 747; [2019] 6 CLJ 1, FC (refd)
Parashuram Detaram Shamdasani v King-Emperor [1945] AC 264, PC (refd)
Peguam Negara Malaysia v Mkini Dotcom Sdn Bhd & Anor [2020] 4 MLJ 791; [2020] 7 CLJ 173, FC (refd)
Sinnaiyah & Sons Sdn Bhd v Damai Setia Sdn Bhd [2015] 5 MLJ 1; [2015] 7 CLJ 584, FC (refd)
TO Thomas v Asia Fishing Industry Pte Ltd [1977] 1 MLJ 151, FC (refd)
Tan Sri Dato' (Dr) Rozali Ismail & Ors v Lim Pang Cheong @ George Lim & Or [2012] 3 MLJ 458; [2012] 2 CLJ 849, FC (refd)
Thiruchelvasegaram a/l Manickavasegar v Mahadevi a/p Nadchatiram [1998] 4 MLJ 297; [1998] 4 CLJ 883, CA (refd)
Wee Choo Keong v MBf Holdings Bhd & Anor and another appeal [1993] 2 MLJ 217; [1993] 3 CLJ 210, SC (refd)

Legislation referred to

Legal Profession Act 1976 s 35(1)
Moneylenders Act 1951
Rules of Court 2012 O 52, O 52 r 2B
Rules of the Federal Court 1995 r 137

Hong Chong Hang (Edmund Lim with him) (Hong Chew King & Co) for the applicants.
Chieng Lee Karn (Chieng and Lum and Assoc) for the respondents.
Mohamed Haniff Khatri Abdulla (Mohamad Reza bin Abu Hassan, Mohd Irzan Iswatt Mohd Noor and Mohamad Farhan bin Kamarudin Haniff Khatri with him) for Haniff Khatri.

Hasnah Hashim FCJ:

INTRODUCTION

[1] There are two committal proceedings commenced, one initiated at the Ipoh High Court and the other, before this court. The parties will be referred to as in the committal proceeding before the Federal Court.

[2] Enclosure 38(a) is the committal proceeding before this court:

(1) Ding Toh Biew (No K/P: 710206-08-6281), Ding Toh Gien (No K/P: 680918-08-5573) dan Ding Toh Lei (No K/P: 631002-08-6225), Pemohon-Pemohon Ke-2, Ke-3 dan Ke-4 yang dinamakan di atas untuk tunjuk sebab mengapa mereka tidak harus dikomitkan ke penjara kerana menghina Perintah Mahkamah Persekutuan bertarikh 20.6.2017;

(2) Golden Star (No Pendaftaran Perniagaan 5196380), Ding Toh Biew (No K/P: 710206-08-6281), Ding Toh Gien (No K/P: 680918-08-5573) dan Ding Toh Lei (No K/P: 631002-08-6225), Pemohon Pertama, Ke-2, Ke-3 dan Ke-4 yang dinamakan di atas untuk tunjuk sebab mengapa mereka tidak harus dikomitkan ke penjara kerana memalukan Hakim-Hakim Mahkamah Persekutuan yang mendengar dan memutuskan Perintah Mahkamah Persekutuan bertarikh 20.6.2017 dan melemahkan pentadbiran keadilan dan keyakinan awam terhadap badan Kehakiman;

(3) Mohamed Haniff B Khatri Abdulla, seorang peguambela dan peguamcara yang mengamal di bawah nama dan gaya Tetuan Haniff Kathri, peguam mewakili Pemohon-Pemohon yang dinamakan di atas untuk tunjuk sebab mengapa beliau tidak harus dikomitkan ke penjara kerana membantu dan bersuhabat dengan Pemohon-Pemohon untuk mengekalkan pelanggaran dan ketidakpatuhan Perintah Mahkamah Persekutuan bertarikh 20.6.2017, memalukan Hakim-Hakim Mahkamah Persekutuan yang mendengar dan memutuskan Perintah Mahkamah Persekutuan bertarikh 20.6.2017 dan melemahkan pentadbiran keadilan dan keyakinan awam terhadap Badan Kehakiman; dan

(4) Kos permohonan dibayar oleh Pemohon-Pemohon yang dinamakan di atas dan Mohamed Haniff B Khatri Abdulla kepada Ling Peek Hoe dan Ling Boon Huat/Responden-Responden.

[3] Enclosure 52(a) is the notice of motion filed by Mohamed Haniff bin Khatri Abdulla ('HK') to set aside para 3 of the Federal Court order dated 27 May 2019:

(1) Bahawa berdasarkan Kaedah 137, Kaedah-Kaedah Mahkamah Persekutuan 1995 dan/atau bidang kuasa sedia ada Mahkamah, perenggan (3) Perintah Ex-Parte Mahkamah Persekutuan bertarikh 27 May 2019 yang memberikan kebenaran kepada Responden- Redsponden

yang dinamakan di atas untuk memohon supaya Mohamed Haniff bin Khatri Abdulla seorang peguambela dan peguamcara yang mengamal di bawah nama dan gaya Tetuan Haniff Khatri, peguam mewakili Pemohon-Pemohon yang dinamakan di atas, untuk tunjuk sebab mengapa beliau tidak hasur dikomitkan ke penjara kerana membantu dan bersubahat dengan Pemohon-Pemohon untuk megekalkan perlanggaran dan ketidakpatuhan Perintah Mahkamah Persekutuan bertarikh 20.6.2017, memalukan Hakim-Hakim Mahkamah Persekutuan yang mendengar dan memutuskan perintah Mahkamah Persekutuan bertarikh 20.6.2017 dan melemahkan pentadbiran keadilan dan keyakinan awam terhadap Badan Kehakiman, adalah diketepikan;

(2) Bahawa berdasarkan Kaedah 137, Kaedah-Kaedah Mahkamah Persekutuan 1995 dan/atau bidang kuasa sedia ada Mahkamah, prosiding pengkomitan melalui Notis Usul bertarikh 29 May 2019 terhadap Pemohon-Pemohon dan Mohamed Haniff bin Khatri Abdulla di Mahkamah Persekutuan, termasuk namun tidak terhad kepada pemfailan Afidavit Jawapan oleh Mohamed Haniff bin Khatri Abdulla terhadap prosiding pengkomitan tersebut, adalah digantung sehingga pelupusan permohonan Mohamed Haniff bin Khatri Abdulla di perenggan (1) di atas;

(3) Kos bagi permohonan ini hendaklah dibayar oleh Responden-Responden yang dinamakan di atas kepada Mohamed Haniff bin Khatri Abdulla dengan serta-merta.

[4] Ling Peek Hoe and Ling Boon Huat are the first and second applicants ('the applicants') in this committal proceeding. The second applicant is the son of the first applicant. Golden Star, Ding Toh Biew, Ding Toh Gien and Ding Toh Lei are the first, second, third, and fourth respondents ('the respondents'). Mohamed Hanif bin Khatri Abdulla ('HK'), an advocate and solicitor practising under the name and style of Messrs Haniff Khatri was cited by the applicants for aiding and abetting the respondents' non-compliance of the court order. The leave to commence committal proceedings was granted by this court on 27 May 2019.

THE FACTS

[5] The first applicant is the registered owner of a shophouse described as No 59, Taman Ilmu Setiawan, Setiawan, Perak ('No 59 shophouse') and two pieces of agricultural land located at Kg Selamat ('Kg Selamat properties'). These properties will collectively be referred to as 'the properties'. Ding Siew Ching ('DSC') is an advocate and solicitor practising in Messrs. Ding & Co in Setiawan, Perak. The first respondent is a licensed moneylending company while the second, third and fourth respondents are partners of the first respondent. DSC, the second, third and fourth respondents are siblings.

[6] The facts that led to the dispute between the parties began in 1995 when the first applicant obtained a loan facility of RM590,000 from Hong Leong Bank Bhd ('HLBB'). The properties and his house at No 27, Jalan Raja Omar ('Jalan Raja Omar property') were charged as securities for the loan.

[7] Sometime in mid-1996, the first applicant approached the first respondent's office for a loan through the second respondent. For the purpose of the loan, the first applicant was asked to furnish the original copy of the titles of the properties and was informed that the first respondent had the right to keep the original titles until the first applicant fully paid the loans.

[8] For the purpose of the loan the first applicant signed certain documents and paid the sum of RM150 as legal fees. It was represented to the first applicant by the second respondent that the documents that he had signed as well as the legal fees paid were for the loan procured from the first respondent. A cheque of RM5,000 was issued by the second respondent to the first applicant with the agreed interest on the loan of 4% per month. The first applicant further took a few more loans from the first respondent totalling RM500,000.

[9] Unfortunately, the first applicant was in arrears of the HLBB loan payment. To resolve the outstanding sum due to HLBB, the first applicant sold the Jalan Raja Omar property sometime at the end of 1996. HLBB received RM330,000 as part payment of the first applicant's loan with HLBB.

[10] The respondents settled the first applicant's HLBB loan and discharged the charges on the properties.

[11] In 2003 the first applicant discovered that the properties had been transferred to the second, third and fourth respondents by virtue of sale and purchase agreements ('SPAs'). All the loans and transfers documentation were handled by DSC.

[12] In the same year, the first applicant took a loan from another bank to repurchase No 59 shop house for RM330,000 where the first applicant and his family lived. The No 59 shop house was then transferred to the second applicant. As in the previous transaction all the documentations relating to the transfer were handled by DSC.

THE HIGH COURT

[13] On *18 August 2006* the applicants filed a suit in the Ipoh High Court against DSC and the respondents seeking a declaration that the SPAs and the transfer of the properties were null and void. The essence of the applicants'

claim was based on misrepresentation, fraud or conspiracy to defraud.

[14] In respect of DSC, the applicants alleged that as an advocate and solicitor, she failed to exercise all reasonable professional care, skill and diligence and had breached the terms of her retainer with the applicants, in particular:

(a) failed to properly advise the applicants on the purported SPAs for the properties from the first applicant to the second, third and fourth respondents; and

(b) failed to advise the applicants that the purported transactions and redemption of the No 59 shop house was in contravention of the Moneylenders Act 1951 ('the MLA 1951').

[15] The respondents also filed a suit in the Ipoh High Court against the applicants seeking an injunction and damages for trespass. Both suits by order of the High Court were consolidated on *24 February 2010*.

[16] On *28 November 2012* after a full trial, the High Court declared that the SPAs entered between the first applicant with the second, third and fourth respondents and the transfers of the properties were null and void. The High Court ordered the respondents to pay the applicants general, special, punitive and exemplary damages. The respondents' claim was dismissed with costs.

[17] Subsequently on *17 April 2013*, the High Court further ordered the respondents to do all that is necessary to discharge the lands and thereafter surrender the original issue document of titles to the first applicant within 60 days from the date of the order ('the High Court order').

[18] Aggrieved by the decision of the High Court the respondents appealed to the Court of Appeal.

THE COURT OF APPEAL ('COA')

[19] The COA found that the learned JC erred in applying the wrong standard of proof in holding that the applicants had proven their case against the respondents for fraudulent misrepresentation and fraud in respect of the three properties. The learned JC ought to have used the beyond reasonable doubt test. The applicants failed to prove fraudulent misrepresentation and fraud beyond reasonable doubt.

[20] The COA allowed the three appeals by the respondents with costs and set aside the High Court order.

THE FEDERAL COURT

[21] Dissatisfied with the decision made by Court of Appeal, on *10 April 2015* the applicants filed a motion for leave to appeal.

[22] On *28 March 2016*, the Federal Court allowed the leave to appeal and the following questions of law:

> Question 1
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> Whether in light of the recent Federal Court of Malaysia's decision in *Sinnaiyah & Sons Sdn Bhd v Damai Setia Sdn Bhd* [2015] 5 MLJ 1; [2015] 7 CLJ 584, the Court of Appeal was right in adopting beyond reasonable doubt as the standard of proof for civil claim?
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> Question 2
>
> Whether irresistible conclusion is not the same with beyond reasonable doubt?

[23] On *20 June 2017* the appeal was heard in the Federal Court. In respect of question 1, the Federal Court held that the court could not subscribe to the argument that, 'future cases' meant only cases that were yet to be filed with the courts. The law as declared by the Federal Court in *Sinnaiyah* and made subject to the doctrine of prospective overruling, applied to all pending cases and all those cases that were still under appeals within the court system. For that reason, it was wrong of the COA to have adopted the 'beyond reasonable doubt' as the standard of proof in the instant case.

[24] In respect of question 2, the Federal Court was of the view that the 'irresistible conclusion test' was the same as 'the beyond reasonable doubt test'.

[25] The Federal Court unanimously allowed the applicants' appeal, set aside the COA order and reinstated the High Court order requiring the second to fourth respondents to cause the charge created by them on the first applicant's properties to be discharged and to return the original title deeds to the first applicant within 60 days of the FC order.

THE REVIEW APPLICATIONS AND COMMITTAL PROCEEDINGS

[26] Dissatisfied with the Federal Court's decision, on 28 February 2018 the respondents filed a motion to review the Federal Court order vide Federal Court Civil Application No 02(f)-24–04 of 2016(A) ('the first review').

[27] At the same time on 16 April 2018 the applicants filed a committal proceeding against the second, third and fourth respondents in the Ipoh High Court for non-compliance of the FC order.

[28] The Ipoh High Court allowed the ex parte order dated 18 May 2018 for the applicants to cite the second, third and fourth respondents for contempt.

[29] During the hearing of the first review before the Federal Court on 15 August 2018, the respondents' counsel applied for an adjournment which was not allowed by the Federal Court. The respondents' counsel then decided to withdraw the first review and accordingly it was struck off by the Federal Court.

[30] After the first review was struck off by the Federal Court on *24 September 2018*, HK was appointed by the respondents to represent them. It is contended by the respondents that they were unaware of the withdrawal of the first review by their counsel and that it was made without their instructions.

[31] On *23 October 2018* HK filed another review application against the Federal Court order that is, Civil Review No 08(R)-8–10 of 2018(W) ('the second review). This was followed by an application for stay of proceeding (inclusive but not limited to committal proceeding against the respondents) filed on 25 October 2018 in the Ipoh High Court pending disposal of second review.

[32] On *8 November 2018* HK filed another review application against Federal Court order vide Civil Review No 08(RS)-15–11 of 2018(W) ('the third review').

[33] On *6 December 2018* HK obtain a stay of execution at the Ipoh High Court pending disposal of the review applications.

[34] Both the second review and the third review were struck off on *27 May 2019*. The Federal Court granted leave to the applicants to commence committal proceeding against HK and the respondents on following grounds:

(a) failed, ignored and refused to obey the Federal Court's order;

(b) openly denied the 'kesahihan dan penguatkuasaan' (validity and enforceability) of the Federal Court's order;

(c) falsely and without any basis accused the Federal Court 'berat sebelah' (bias) on the Federal Court's order; and

(d) ignored the authority and bypass the hierarchy of Federal Court by applying for a stay of proceeding in the High Court pending disposal of the second and third review in the Federal Court.

[35] HK filed a notice of motion on *29 May 2019* to set aside para 3 of the Federal Court order dated 27 May 2019. The applicants on the other hand

filed a notice of motion for committal proceedings (encl 38(a)). Due to conflict of interest HK discharged himself from representing the respondents. This court heard both encls 52(a) and 38(a) together.

THE ARGUMENTS

[36] Before us learned counsel for the applicants argued that the respondents not only failed but blatantly ignored and refused to obey the Federal Court order within the prescribed 60 days as expressly stated in the said order. Learned counsel submitted that the respondents were aware of the mandatory injunction and the Federal Court order which had affirmed the High Court order. The respondents through an affidavit filed to oppose the committal proceedings denied the validity and enforceability of the order of the Federal Court. It was further argued that the respondents' allegation of bias is without any merit and basis. Such allegation casts aspersion on the integrity and impartiality of the Federal Court judges who had heard the appeal.

[37] It was further submitted by learned counsel for the applicants that by applying for a stay of proceedings in the Ipoh High Court pending disposal of the second and third reviews in the Federal Court, the respondents had bypassed the hierarchy of the courts. The respondents did not apply for a stay at the Federal Court but had instead filed the stay application at the Ipoh High Court. HK was cited as a contemnor as he acted as counsel for the respondents had according to the applicants orchestrated, aided and abetted the respondents to disobey the Federal Court order.

[38] In response, learned counsel for the respondents submitted that they had just followed the advice of HK because they are laymen and thus do not possess any knowledge of the law and the rules of court. Therefore, they had no other option but to rely on the professional advice given by HK as their lawyer.

[39] HK on the other hand, argued that the applicants failed to prove beyond reasonable doubt that he is in contempt as the matter complained of by the applicants does not amount to interfering with the due administration of justice but was made in good faith in exercising the respondents' legal rights. He had acted in accordance with the respondents' instructions and the applicants failed to prove that it was HK who had advised the respondents to disobey the Federal Court order. In support of his submission learned counsel argued that as an advocate and solicitor, he is protected by the provisions of the LPA, that is, to act without fear or favour. Furthermore, it is against public policy for advocates and solicitors to be held liable for contempt in the course of exercising their duty as the filing of the second and third review applications and the stay proceedings are within the ambit of the law and does not tantamount to an act of contempt.

A ANALYSIS AND DECISION

Enclosure 52(a)

B **[40]** Enclosure 52(a) is unanimously dismissed by this court. Our reasons are as follows. Firstly, on the issue of personal service, under O 52 r 2B of the Rules of Court 2012, the question whether the failure to comply with the rule is fatal or not depends on the fact of the case and whether it has prejudice the proposed contemnor in this case HK. This court in *Peguam Negara Malaysia v Mkini Dotcom Sdn Bhd & Anor* [2020] 4 MLJ 791; [2020] 7 CLJ 173 held that
C non-compliance with the requirement of notice pursuant to O 52 r 2B is not fatal or prejudicial. On the facts of the case before us, we are of the view that the failure by the applicants to serve the notice personally on HK is neither fatal nor prejudicial to him. On the issue in relation to intitulement, we do not find
D any merit in the argument that the failure to cite the name of HK in the intitulement is fatal. With regard to the O 52 statement, we find that sufficient particulars of the alleged contempt by HK have in fact been stated in the statement itself.

E *Review application*

[41] The issue before us is the contempt by the respondents and their former lawyer, HK. However, we feel that is necessary to discuss the review application which is the basis of the complaints by the applicants in this committal
F proceedings. Rule 137 of the Rules of the Federal Court 1995 ('the RFC') provides:

> For the removal of doubts it is hereby declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to hear any application or to make any order as may be necessary to prevent injustice or to prevent an abuse
G of the process of the Court.

[42] Under r 137 of the RFC the Federal Court has the inherent power to review its own decision but this is exercised only in rare and exceptional circumstances. Abdul Hamid CJ in *Asean Security Paper Mills Sdn Bhd v Mitsui*
H *Sumitomo Insurance (Malaysia)* [2008] MLJU 251; [2008] MLJU 1090 in his usual eloquent manner explained the invocation of the rule:

> In an application for a review by this court of its own decision, the court must be satisfied that it is a case that falls within the limited grounds and very exceptional
I circumstance in which a review may be made. Only if it does, that the court reviews its own earlier judgment. Under no circumstances should the court position itself as if it were hearing an appeal and decide the case as such. In other words, it is not for the court to consider whether this court had or had not made a correct decision on the facts. That is a matter of opinion. Even on the issue of law, it is not for this court to determine whether this court had earlier, in the same case, interpreted or applied

the law correctly or not. That too is a matter of opinion. An occasion that I can think of where this court may review its own judgment in the same case on question of law is where the court had applied a statutory provision that has been repealed. I do not think that review power should be exercised even where the earlier panel had followed certain judgments and not the others or had overlooked the others. Not even where the earlier panel had disagreed with the court's earlier judgments. If a party is dissatisfied with a judgment of this court that does not follow the court's own earlier judgments, the matter may be taken up in another appeal in a similar case. That is what is usually called 'revisiting'. Certainly, it should not be taken up in the same case by way of a review. That had been the practice of this court all these years and it should remain so. Otherwise, there will be no end to litigation. A review may lead to another review and a further review. This court has so many time warned against such attempts.

[43] In order to succeed in a review application made pursuant to r 137 of the RFC it must be shown that not only does the case fall within the stringent criteria as set out in *Asean Security Mills* but the error must be so obvious that there was injustice to the party. Zaki Tun Azmi CJ succinctly explained in his judgment in *Badan Peguam Negara v Kerajaan Malaysia* [2009] 2 MLJ 161:

Before the application can succeed, he must be able to show on the face of the record that there was injustice. That error must be obvious on the face of the record. It should be able to be seen just by reading the record that there was an error which obviously was an injustice. In *Asean Security Papermills* case, I have listed out the circumstances where discretion under r 137 can be exercised. If one were to go through all these cases, injustice could be clearly seen even before going into the merits of each case. It cannot apply where a decision of this court is only questioned, whether in law or on the facts of the case. This principle is well spelt out in the case cited below.

[13] In *Chan Yock Cher @ Chan Yock Kher v Chan Teong Peng* [2005] 4 CLJ 29 at p 45, Abdul Hamid Mohamad FCJ (as he then was) said this:

... It has been seen that the applicant questions the findings of this court both in law and on facts. These are matters of opinion. Just because we may disagree (we do not say whether we agree or disagree with such findings) with the earlier panel of this court that is not a ground that warrants us to review the decision. Similarly, regarding the interpretation and application of some provisions of the Companies Act 1965, even if we disagree with the earlier panel (again we do not say whether we agree or disagree) that does not warrant us to set aside the judgment and the order of the earlier panel of this court and re-hear and review the appeal. Otherwise, as has been said, there would be no end to a proceeding.

[44] In the instant case before us, this court had unanimously allowed the applicants' appeal, set aside the Court of Appeal order and reinstated the High Court order. The respondents then filed an application to review the Federal Court decision. The first review was struck off by this court on 15 August 2018

when the respondents' counsel decided to withdraw application. This was then followed by the second and third review applications.

[45] The effect of the striking out of the first review would necessarily mean that the decision of the High Court had been reinstated as ordered by this court. In other words, the respondents must comply with the order granted by the High Court in favour of the applicants. Due to the non-compliance of the Federal Court order the applicants filed a committal proceeding against the respondents. However, the respondents filed an application to stay the execution of the order pending the review applications.

[46] HK filed the second review but the application was technically flawed as it was filed under the wrong administrative code. Subsequently, another review application was filed, the third review. The applicants on the other hand, filed an application to strike out both the second and third review applications and on 27 May 2019 both applications were struck off without liberty to file afresh by this court.

The committal proceeding

[47] There are two orders pertaining to this case. The High Court order dated 17 April 2013 granted a mandatory injunction compelling the respondents to surrender the titles within 60 days from the date of the order. The 60 days to comply lapsed on *17 June 2013.* The FC order dated *20 June 2017* affirmed the High Court order granting the mandatory injunction. The 60 days to comply lapsed on *20 August 2017.*

[48] The respondents' previous solicitors, Messrs Yunus Ali & Kam had advised them to comply with the FC order despite the filing of a review against it. Learned counsel for the respondents argued that being laymen they had followed the advice of their lawyer. However, the respondents blatantly disregarded the Federal Court order and proceeded to engage HK after the expiry of the prescribed 60 days. It is contended by learned counsel for the applicants that the respondents did the following:

(a) affirmed an affidavit denying the validity and enforceability of the Federal Court order; and

(b) relied on the said affidavit to oppose the committal proceeding against them for non-compliance of the mandatory injunction in the High Court.

[49] HK was then engaged by the respondents after the 60 days lapsed on *24 September 2018*. Despite the lapse of the 60 days the applications for review of the Federal Court order were filed. The application to stay the committal

proceeding at the High Court was filed by the respondents. When the application for leave to commence committal proceeding was granted by the Federal Court, the respondents decided to dissociate themselves from HK for the advice given. *Ex abudandi cautela,* they filed a complaint with the Bar as well as a Statutory Declaration to show that they were serious about HK giving 'incompetent and/or wrong advice' to them (see: para 6.3 affidavit Ding Toh Lei affirmed on 15 August 2019).

[50] HK in his affidavit justified his reasons for filing the applications:

(a) he was acting on the instructions of his clients and therefore protected under the LPA;

(b) the applications for review No 2 and No 3 were filed on the instructions of his clients; and

(c) the application for stay of execution in the High Court was filed on the instructions of his clients.

[51] HK further argued in response that the filing of the committal proceedings in this court had in fact ousted the alleged contemnors' right of appeal as the alleged act of contempt was at the High Court not at the Federal Court. The failure by the applicants to initiate the committal proceeding against HK at the High Court and Court of Appeal stage shows that the applicants were in doubt as to whether there was any act of contempt committed by HK. As such, the applicants are estopped from proceeding with committal proceeding against HK as they themselves were in doubt as to whether they have a prima facie case of contempt against HK.

[52] The respondents had merely exercised their legal right in filing the appeals against the High Court decision and review against the Federal Court decision. HK further submitted that there is no prima facie act of contempt or the charge had not been proved beyond reasonable doubt because the matter complained of does not amount to and/or calculated as interfering with the due administration of justice but was made in good faith in the exercise of the respondents' legal rights.

[53] It was further argued that the filing of the second and third review applications before Federal Court and the stay proceeding application before the High Court were bona fide and under instruction by the respondents and not to defeat the administration of justice.

[54] In the review applications the respondents raised bias as a ground to challenge the Federal Court order. Learned counsel for the applicants argued

that this cast aspersion on the integrity and dignity of the Federal Court judges who had heard the appeal. Learned counsel for the applicants in his submission cited the case of *Hock Hua Bank (Sabah) Bhd v Yong Liuk Thin & Ors* [1995] 2 MLJ 213; [1995] 2 CLJ 900 where Gopal Sri Ram, Judge of the Court of Appeal (as he then was) said that allegation of bias is a serious allegation that may lead to erosion of public confidence in the judiciary:

> Nothing is capable of eroding public confidence in the judicial arm of the State than unwarranted and unfounded allegations of bias. It is therefore to be avoided at all costs, if necessary, by having resort to the power to punish for contempt.

[55] In response to the submission of learned counsel for the applicants, HK argued that he was merely acting on instructions and is protected from contempt by virtue of s 35(1) of the LPA which reads:

> (1) Any advocate and solicitor shall, subject to this Act and any other written law, have the exclusive right to appear and plead in all Courts of Justice in Malaysia according to the law in force in those Courts; and as between themselves shall have the same rights and privileges without differentiation.

[56] Learned counsel, HK further submitted that by virtue of the provision of s 35(1) of the LPA advocates and solicitors are protected from contempt proceeding in order to be able to act without fear or favour. The said provision states that, subject to the provisions of the LPA and any other written law, advocates and solicitors shall have the exclusive right to appear and plead in all courts in Malaysia according to the applicable law and shall have the same rights and privileges.

[57] The principles of law pertaining to contempt of court is explained through the judgment of Abdul Hamid Omar (LP) in the Supreme Court decision of *Wee Choo Keong v MBf Holdings Bhd & Anor and another appeal* [1993] 2 MLJ 217 at pp 220–221; [1993] 3 CLJ 210 at p 212:

> Obedience to court order
>
> It is established law that a person against whom an order of court has been issued is duty bound to obey that order until it is set aside. It is not open for him to decide for himself whether the order was wrongly issued and therefore does not require obedience. His duty is one of obedience until such time as the order may be set aside or varied. Any person who fails to obey an order of court runs the risk of being held in contempt with all its attendant consequences.

[58] Arifin Zakaria CJ in *Tan Sri Dato' (Dr) Rozali Ismail & Ors v Lim Pang Cheong @ George Lim & Or* [2012] 3 MLJ 458; [2012] 2 CLJ 849 (FC) said:

[26] Contempt has been reclassified either as (1) a specific conduct of contempt for breach of a particular court order; or (2) a more general conduct for interfering with the due administration or the course of justice. This classification is better explained in the words of Sir Donaldson MR in *Attorney-General v Newspaper Publishing Plc*, at p 362:

> Of greater assistance is the reclassification as (a) conduct which involves a breach, or assisting in the breach, of a court order; and (b) any other conduct which involves an interference with the due administration of justice, either in a particular case or, more generally, as a continuing process, the first category being a special form of the latter, such inference being a characteristic common to all contempts per Lord Diplock in *Attorney-General v Leveller Magazine Ltd* [1979] AC 440 at 449.

[27] This reclassification was adopted by the Court of Appeal in *Jasa Keramat Sdn Bhd v Monatech (M) Sdn Bhd* [2001] 4 MLJ 577; [2001] 4 CLJ 549.

[28] Hence, the law of contempt is wide enough to cover not only those who are bound by the court order, but other parties who assist the disobedience to the court order. It was reported in *Attorney-General v Times Newspapers Ltd* [1991] 2 All ER 398 that a person, who knowingly impeded or interfered with the administration of justice in an action between two other parties, was guilty of contempt of court notwithstanding that he was neither named in any order of the court nor had assisted a person against whom an order was made.

[59] The Federal Court in *PCP Construction Sdn Bhd v Leap Modulation Sdn Bhd (Asian International Arbitration Centre, intervener)* [2019] 4 MLJ 747; [2019] 6 CLJ 1 held:

[41] The courts of justice are the bulwark of a nation. Alexander Hamilton famously recognised, in the doctrine of the separation of powers, that the Legislature controls money, the executive controls force and the Judiciary controls nothing. It is on public confidence that the Judiciary depends, for the general acceptance of its judicial decisions, by both citizens and the Government. The public conforms to the decisions of the Judiciary, because they respect the concept of judicial power and the judges who exercise such power.

[42] Therefore, the trust and confidence of the people in the judicial system to deliver impartial justice comprises the very foundation of the Judiciary.

[43] The concept of contempt of court is essential to protect public confidence in the Judiciary and the administration of justice. The rationale behind the concept has been stated in the English *locus classicus* on this subject, namely the *Attorney General v Times Newspaper Ltd* [1973] 3 All ER 54 by Lord Morris and followed by Steve Shim CJ (Sabah and Sarawak) in the case of *Zainur Zakaria v Public Prosecutor* [2001] 3 CLJ 673; [2001] 3 MLJ 604:

> ... For a better perspective of this concept, I can do no better than refer to the illuminating speeches made by a strong panel of Law Lords in *Attorney General v Times Newspaper Ltd* [1973] 3 All ER 54 (universally known as 'the thalidomide case'). Therein, Lord Morris has said as follows:

> ... the phrase 'contempt of court' is one which is compendious to include not only disobedience to orders of a court but also certain types of behaviour or varieties of publications in reference to proceedings before courts of law which overstep the bounds which liberty permits. In an ordered community courts are established for the pacific settlement of disputes and for the maintenance of law and order. In the general interests of the community it is imperative that the authority of the courts should not be imperilled and that recourse to them should not be subject to unjustifiable interference. When such unjustifiable interference is suppressed it is not because those charged with the responsibilities of administering justice are concerned for their own dignity: it is because the very structure of ordered life is at risk if the recognised courts of the land are so flouted that their authority wanes and is supplanted. But as the purpose and existence of the courts of law is to preserve freedom within the law for all well-disposed members of the community, it is manifest that the courts must never impose any limitations on free speech or free discussion or free criticism beyond those which are absolutely necessary. When therefore a court has to consider the propriety of some conduct or speech or writing decision will often depend on whether one aspect of the public interest definitely outweighs another aspect of the public interest. Certain aspects of the public interest will be relevant in deciding or assessing whether there has been contempt of court. But this does not mean that if some conduct ought to be stigmatised as being contempt of court it could receive absolution and be regarded as legitimate because it had been inspired by a desire to bring about a relief of some distress that was a matter of public sympathy and concern. There can be no such thing as a justifiable contempt of court.
>
> These are words of unparalleled wisdom which should be engraved in tablets of stone.

[60] HK's arguments that the applicants' application for contempt is motivated by vengeance to retaliate against the respondents' applications for review is baseless. HK had at all material times acted on the instructions of the respondents when he filed the review applications and the stay.

[61] In *TO Thomas v Asia Fishing Industry Pte Ltd* [1977] 1 MLJ 151, it was held by this court that 'An order even irregularly obtained cannot be treated as a nullity, but must be implicitly obeyed, until by proper application it is discharged'. Lee Hun Hoe (Borneo) CJ in *TO Thomas* explicitly emphasised that contempt of court arises when there is wilful disobedience of an injunction:

> When an injunction has been made against a person appellant cannot aid and abet that person to flout it for that will be in contempt. That person can appear in court and contest the injunction by asking the court to vacate it. Contempt of court arises on the wilful disobedience of the injunction whether it is made with or without jurisdiction. The question whether 'the court order' has been suspended or modified is a matter for the court to decide when its properly before the court. This is not a

matter for appellant to arbitrarily so construe. Where a plaintiff has proved his right to an injunction against a nuisance or other injury, it is no part of the duty of the court to inquire in what way the defendant can best remove it. See *Attorney General v Colney Hatch Lunatic Asylum* [1869] 4 Ch app 146. 'The court order' has never been discharged. There is no question of the undertaking suspending 'the court order'. An order even irregularly obtained cannot be treated as a nullity, but must be implicitly obeyed, until by proper application it is discharged. This view is supported by authority. In dealing with the contention that the original order had been erroneously granted in *Fennings v Humphrey* [1841] 4 Beav 1; 49 ER 237. Lord Langdale MR said:

> It is clear, that a party who is served with an order may be guilty of contempt for disobedience, in a case in which the order ought not to have been made. He is not to determine for himself, but ought to come to the court for relief, if advised that the order is invalid'.

Nothing is more incumbent upon the courts than to preserve their proceedings from being misrepresented; nor is there anything of more pernicious consequence than to prejudice the minds of the public against the courts.

[62] The Court of Appeal in *Thiruchelvasegaram a/l Manickavasegar v Mahadevi a/p Nadchatiram* [1998] 4 MLJ 297; [1998] 4 CLJ 883, observed that a party could not ignore or refuse to comply with a court order on the ground of nullity. In another case *Hup Soon Omnibus Co Sdn Bhd & Anor v Lim Chee @ Lam Kum Chee* [2017] MLJU 1937; [2018] 1 CLJ 641 the Court of Appeal emphasised the importance of a court order that it must be obeyed as ordered unless set aside or varied and not just a mere technicality that can be ignored. Before us, on the facts and evidence we find that there was a blatant and flagrant disobedience of the order of the Federal Court.

[63] Despite having exhausted all the avenues to appeal their case, the respondents were recalcitrant by insisting on litigating by filing the applications for review as well as for the stay. From the time the Federal Court order was granted until the first review application was filed one year two months had lapsed followed by the filing of the second and third review applications. It is apparent to us that the respondents have unabashedly refused to comply with the High Court order affirmed and reinstated by this court. The non-compliance of a court order, and in this case an injunction, is a serious matter. Such behaviour to our mind, showcased total disregard and disrespect of the order granted by the Federal Court which tantamount to clear contempt of this court's order.

[64] With regard to HK, we are mindful that an allegation of contempt against an advocate and solicitor is a serious matter. HK is not a novice but an experienced advocate and solicitor with more than twenty years of litigation experience under his belt. When he was engaged the 60 days to comply as

ordered by this court had expired. By accepting the brief HK would have been aware at all material times of the Federal Court order and the terms of the mandatory injunction. Nevertheless, HK filed the second review application followed by the third review application as well as the stay of the committal in the High Court. HK's justification for filing the applications for review and stay is just this, that under the law, on behalf of his client he can file the review applications as well as the stay application. We agree that he can do so. However, the circumstances and the facts of this case are not that simple or straightforward. There is a specific order to comply with the FC order which had lapsed when the application to stay the committal was filed in the High Court as well as the second and third review applications were pending in the Federal Court. No application was filed to stay the Federal Court order.

[65] As an advocate, HK's main and primary duty as officer of the court is to ensure the rules of court are observed, and to respect the court and the court's order. Section 35(1) of the LPA does not protect lawyers from contempt. It merely deals with the right to appear and plead in courts in Malaysia.

[66] HK's affidavits are devoid of any reason or explanation of whether he had advised his clients to comply with the Federal Court order and the reason for non-compliance and, despite the advice given by him they had instructed him to proceed with filing the review applications and the stay application.

[67] Anuar bin Dato' Zainal Abidin J (as he then was) in *MBf Holdings Bhd & Anor v Houng Hai Kong & Ors* [1995] 1 MLJ 135; [1994] 4 CLJ 1002 emphasised the duties and responsibilities of an advocate and solicitor:

> As a member of the Bar he is also an officer of the court. He has an onerous duty as an advocate and solicitor to see that justice is upheld. At the same time as an officer of the court he has a duty towards the court. Indeed his duty to the court is most important. It is his duty to protect the dignity of court. It is therefore expected of him to show respect for the administration of justice.

[68] His Lordship further said:

> As a member of the Bar he should have shown greater respect for an order of court. On the contrary he had blatantly challenged the validity of the order. The defendant obtrusively defied the power of the court and therefore has committed contumelious conduct against the order of court.
>
> ... He has completely brushed aside the order of court. He manipulated and schemed an action to suit his own purpose ignoring the supremacy of the order of court.

[69] Lord Goddard through his judgment in *Parashuram Detaram Shamdasani v King-Emperor* [1945] AC 264 at p 270 observed:

> Their Lordships would once again emphasise what has often been said before, that this summary power of punishing for contempt should be used sparingly and only in serious cases. It is a power which a court must of necessity possess; its usefulness depends on the wisdom and restraint with which it is exercised, and to use it to suppress methods of advocacy which are merely offensive is to use it for a purpose for which it was never intended.

[70] In conclusion, for the reasons we have given above, we are satisfied that contempt of court has been proved beyond reasonable doubt against the respondents and HK for intentional disobedience of the Federal Court.

[71] We are therefore, of the view that such conduct and behaviour of the respondents and HK were contumacious and disrespectful. In the circumstances of this case we are satisfied beyond reasonable doubt that the respondents and HK are guilty of contempt of court.

HK's application dismissed and HK found guilty of contempt of court.

Reported by Ashok Kumar